

HOUSE BILL 88

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2001 Regular Session
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(PRE-FILED)

By: **Chairman, Economic Matters Committee (Departmental - Labor,
Licensing and Regulation)**

Requested: October 26, 2000

Introduced and read first time: January 10, 2001

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 6, 2001

CHAPTER _____

1 AN ACT concerning

2 **Department of Labor, Licensing, and Regulation - Occupational and**
3 **Professional Licensing Boards and Commissions - Penalties and**
4 **Disciplinary Grounds**

5 FOR the purpose of authorizing certain occupational and professional licensing
6 boards and commissions to impose certain civil penalties on certain persons
7 under certain circumstances; altering the penalty amount that certain
8 occupational and professional licensing boards and or commissions may impose
9 on certain persons; altering certain grounds for disciplinary actions against
10 certain persons; requiring certain occupational and professional boards to pay
11 certain penalties collected into the General Fund of the State; and generally
12 relating to the authority of occupational and professional licensing boards and
13 commissions.

14 BY repealing and reenacting, with amendments,
15 Article - Business Occupations and Professions
16 Section 2-315, 2-605, 3-311, 3-605, 4-314, 4-407, 4-513, 4-607, 5-314, 5-407,
17 5-522, 5-609, 7-309, 7-506, 8-310, 8-502, 9-310, 9-605, 12-312, 12-607,
18 14-317, 14-508, 15-318, 15-610, 16-701, 16-706, 17-322, and 17-613
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Business Regulation
23 Section 4-310, 4-322, 9A-310, 9A-505, 12-209, and 12-502

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 2000 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Business Occupations and Professions**

6 2-315.

7 (a) (1) Subject to the hearing provisions of § 2-317 of this subtitle, the
8 Board, on the affirmative vote of a majority of its members, may deny a license to any
9 applicant, reprimand any licensee, or suspend or revoke a license if the applicant or
10 licensee:

11 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
12 license for the applicant or licensee or for another;

13 [(2)] (II) fraudulently or deceptively uses a license;

14 [(3)] (III) under the laws of the United States or of any state, is convicted
15 of:

16 [(i)] 1. a felony; or

17 [(ii)] 2. a misdemeanor that is directly related to the fitness and
18 qualification of the applicant or licensee to practice certified public accountancy;

19 [(4)] (IV) is guilty of fraud or other dishonesty in the practice of
20 accountancy;

21 [(5)] (V) is guilty of gross negligence in the practice of accountancy;

22 [(6)] (VI) violates any provision of Subtitle 6 of this title;

23 [(7)] (VII) has had the right to practice as a certified public accountant in
24 another state denied, revoked, or suspended or has had the renewal of that right
25 denied for any cause other than failure to pay a renewal fee;

26 [(8)] (VIII) has had the right to practice as a certified public accountant
27 before any unit of the State or federal government revoked or suspended; or

28 [(9)] (IX) violates a rule of professional conduct adopted by the Board.

29 (2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE
30 LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE
31 BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

32 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
33 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

- 1 1. THE SERIOUSNESS OF THE VIOLATION;
- 2 2. THE HARM CAUSED BY THE VIOLATION;
- 3 3. THE GOOD FAITH OF THE LICENSEE; AND
- 4 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
- 5 LICENSEE.

6 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
7 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

8 (b) The Board shall consider the following facts in the granting, denial,
9 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
10 applicant or licensee is convicted of a felony or misdemeanor described in subsection
11 [(a)(3)] (A)(1)(III) of this section:

- 12 (1) the nature of the crime;
- 13 (2) the relationship of the crime to the activities authorized by the
14 license;
- 15 (3) with respect to a felony, the relevance of the conviction to the fitness
16 and qualification of the applicant or licensee to practice certified public accountancy;
- 17 (4) the length of time since the conviction; and
- 18 (5) the behavior and activities of the applicant or licensee before and
19 after the conviction.

20 (c) On suspension or revocation of a license, the holder shall surrender to the
21 Board the license certificate of the holder.

22 (d) At the end of a suspension period, the Board shall return to the licensee
23 the license certificate surrendered under this section.

24 2-605.

25 (A) A person who violates any provision of this subtitle is guilty of a
26 misdemeanor and on conviction is subject to a fine not exceeding \$500 or
27 imprisonment not exceeding 6 months or both.

28 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY
29 PROVISION OF THIS SUBTITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH
30 VIOLATION.

31 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
32 CONSIDER:

- 33 (I) THE SERIOUSNESS OF THE VIOLATION;

- 1 (II) THE HARM CAUSED BY THE VIOLATION;
2 (III) THE GOOD FAITH OF THE VIOLATOR;
3 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
4 AND
5 (V) ANY OTHER RELEVANT FACTORS.

6 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
7 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

8 3-311.

9 (a) (1) Subject to the hearing provisions of § 3-313 of this subtitle, the
10 Board, on the affirmative vote of a majority of its authorized membership, may deny
11 a license to any applicant, reprimand any licensee, or suspend or revoke a license if:

12 (i) the applicant or licensee fraudulently or deceptively obtains or
13 renews or attempts to obtain or renew a license or permit for the applicant or licensee
14 or for another;

15 (ii) the applicant or licensee fraudulently or deceptively uses a
16 license;

17 (iii) the applicant or licensee is guilty of any fraud, gross negligence,
18 incompetence, or misconduct while practicing architecture;

19 (iv) the applicant or licensee knowingly violates any provision of the
20 code of ethics adopted by the Board;

21 (v) the applicant or licensee knowingly violates any provision of
22 this title;

23 (vi) the applicant or licensee aids or abets an unauthorized person
24 to practice architecture;

25 (vii) under the laws of the United States or of any state, the
26 applicant or licensee is convicted of:

27 1. a felony; or

28 2. a misdemeanor that is directly related to the fitness and
29 qualification of the applicant or licensee to practice architecture; or

30 (viii) the applicant or licensee has had a license to practice
31 architecture in another state revoked or suspended for grounds that would justify
32 revocation or suspension of a license under this title, except for failure to pay a license
33 or license renewal fee.

1 (2) (i) Instead of or in addition to REPRIMANDING THE LICENSEE OR
2 suspending or revoking a license under this subsection, the Board may impose a
3 penalty not exceeding [\$1,000] \$5,000 for each violation.

4 (ii) To determine the amount of the penalty imposed under this
5 subsection, the Board shall consider:

- 6 1. the seriousness of the violation;
- 7 2. the harm caused by the violation;
- 8 3. the good faith of the licensee; and
- 9 4. any history of previous violations by the licensee.

10 (3) The Board shall pay any penalty collected under this subsection into
11 the General Fund of the State.

12 (b) The Board shall consider the following facts in the granting, denial,
13 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
14 applicant or licensee is convicted of a felony or misdemeanor described in subsection
15 (a)(1)(vii) of this section:

- 16 (1) the nature of the crime;
- 17 (2) the relationship of the crime to the activities authorized by the
18 license;
- 19 (3) with respect to a felony, the relevance of the conviction to the fitness
20 and qualification of the applicant or licensee to practice architecture;
- 21 (4) the length of time since the conviction; and
- 22 (5) the behavior and activities of the applicant or licensee before and
23 after the conviction.

24 3-605.

25 (a) A person who violates § 3-601, § 3-602, § 3-603, or § 3-604 of this subtitle
26 is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$3,000
27 or imprisonment not exceeding 1 year or both.

28 (b) (1) The Board may impose on a person who violates § 3-601, § 3-602, §
29 3-603, or § 3-604 of this subtitle a penalty not exceeding [\$1,000] \$5,000 for each
30 violation.

31 (2) In setting the amount of the penalty, the Board shall consider:

- 32 (i) the seriousness of the violation;
- 33 (ii) the harm caused by the violation;

- 1 (iii) the good faith of the violator;
- 2 (iv) any history of previous violations by the violator; and
- 3 (v) any other relevant factors.

4 (3) The Board shall pay any penalty collected under this subsection into
5 the General Fund of the State.

6 4-314.

7 (a) (1) Subject to the hearing provisions of § 4-315 of this subtitle, the Board
8 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a
9 license if the applicant or licensee:

10 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
11 license for the applicant or licensee or for another;

12 [(2)] (II) fraudulently or deceptively uses a license;

13 [(3)] (III) is incompetent;

14 [(4)] (IV) habitually is intoxicated or under the influence of any drug;

15 [(5)] (V) falsifies a record submitted to the Board;

16 [(6)] (VI) fails to use proper sanitary methods while practicing barbering;

17 [(7)] (VII) fails to keep a barbershop in a sanitary condition;

18 [(8)] (VIII) under the laws of the United States or of any state, is convicted
19 of:

20 [(i)] 1. a felony; or

21 [(ii)] 2. a misdemeanor that is directly related to the fitness and
22 qualification of the applicant or licensee to practice barbering; or

23 [(9)] (IX) violates any provision of this title OR ANY REGULATION
24 ADOPTED BY THE BOARD UNDER THIS TITLE.

25 [(b)] (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
26 suspending or revoking a license UNDER THIS SUBSECTION, the Board may impose a
27 penalty not exceeding \$300 for all violations cited on a single date.

28 [(c)] (II) [In determining] TO DETERMINE the amount of [financial] THE
29 penalty [to be imposed] under this [section] SUBSECTION, the Board shall consider
30 [the following]:

31 [(1)] 1. the seriousness of the violation;

1 (2) If service is made by certified mail, the person who mails the
2 document shall file with the Board verified proof of mailing.

3 (3) If a complaint is made by any person other than a member of the
4 Board, the complaint shall be made under oath by the person who submits the
5 complaint.

6 [(g)] (E) (1) Except as provided in subsection [(h)] (F) of this section, if the
7 Board finds that a complaint alleges facts that are adequate grounds for action under
8 this section, the Board shall act on the complaint as provided under § 4-315 of this
9 subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a
10 penalty.

11 (2) If the Board does not make the finding, the Board shall dismiss the
12 complaint.

13 [(h)] (F) (1) If the Board makes the finding under subsection [(g)(1)] (E)(1)
14 of this section for a violation that relates to the sanitary practice of barbering, the
15 Board shall provide the licensee an opportunity to correct the alleged violation.

16 (2) If the licensee fails to correct each alleged violation within 10 days of
17 written notification of the violation by the Board, the Board shall act on the complaint
18 as provided under § 4-315 of this subtitle.

19 (3) If the licensee corrects each alleged violation within 10 days of notice,
20 the Board shall:

21 (i) dismiss the complaint; and

22 (ii) provide the licensee written notification of the dismissal.

23 4-407.

24 (A) Subject to the hearing provisions of § 4-408 of this subtitle, the Board may
25 deny registration as an apprentice barber to any applicant, reprimand any individual
26 registered as an apprentice barber, or suspend or revoke the registration of any
27 individual registered as an apprentice barber:

28 (1) for any applicable ground under § 4-314 of this title;

29 (2) if the applicant or individual fraudulently or deceptively obtains or
30 attempts to obtain registration for the applicant or individual or for another; or

31 (3) if the applicant or individual fraudulently or deceptively uses a
32 certificate of registration.

33 (B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING AN INDIVIDUAL
34 REGISTERED AS AN APPRENTICE BARBER OR SUSPENDING OR REVOKING THE
35 REGISTRATION UNDER THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT
36 EXCEEDING \$300 FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

1 (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER
2 THIS SECTION, THE BOARD SHALL CONSIDER:

- 3 (I) THE SERIOUSNESS OF THE VIOLATION;
4 (II) THE GOOD FAITH OF THE VIOLATOR;
5 (III) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;
6 (IV) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE
7 COMPLAINANT, THE PUBLIC, AND THE BARBER INDUSTRY; AND
8 (V) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF
9 THE PENALTY.

10 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION
11 INTO THE GENERAL FUND OF THE STATE.

12 4-513.

13 (a) (1) Subject to the hearing provisions of § 4-514 of this subtitle, the Board
14 may deny a barbershop permit to any applicant, reprimand any permit holder, or
15 suspend or revoke a barbershop permit:

- 16 [(1)] (I) for any applicable ground under § 4-314 of this title;
17 [(2)] (II) if the applicant or holder fraudulently or deceptively obtains or
18 attempts to obtain a barbershop permit for the applicant or holder or for another; or
19 [(3)] (III) if the applicant or holder fraudulently or deceptively uses a
20 barbershop permit.

21 [(b)] (2) (I) Instead of or in addition to REPRIMANDING A PERMIT HOLDER
22 OR suspending or revoking a [license] PERMIT UNDER THIS SUBSECTION, the Board
23 may impose a penalty not exceeding \$300 for all violations cited on a single date.

24 [(c)] (II) [In determining] TO DETERMINE the amount of [financial] penalty
25 [to be] imposed under this [section] SUBSECTION, the Board shall consider the
26 following:

- 27 [(1)] 1. the seriousness of the violation;
28 [(2)] 2. the good faith of the violator;
29 [(3)] 3. the violator's history of previous violations;
30 [(4)] 4. the deleterious effect of the violation on the complainant, the
31 public, and the barber industry; and
32 [(5)] 5. any other factors relevant to the determination of the financial
33 penalty.

1 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
2 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

3 [(d)] (B) The Board shall commence proceedings under this section on a
4 complaint to the Board by a member of the Board or any person.

5 [(e)] (C) (1) A complaint shall:

6 (i) be in writing;

7 (ii) be signed by the complainant;

8 (iii) state specifically the facts on which the complaint is based;

9 (iv) be submitted to the Executive Director of the Board; and

10 (v) be served on the person to whom it is directed:

11 1. personally; or

12 2. by certified mail, return receipt requested, bearing a
13 postmark from the United States Postal Service, to the person's last known address
14 as shown on the Board's records.

15 (2) If service is made by certified mail, the person who mails the
16 document shall file with the Board verified proof of mailing.

17 (3) If a complaint is made by any person other than a member of the
18 Board, the complaint shall be made under oath by the person who submits the
19 complaint.

20 [(f)] (D) (1) Except as provided in subsection [(g)] (E) of this section, if the
21 Board finds that a complaint alleges facts that are adequate grounds for action under
22 § 4-514 of this subtitle, the Board shall act on the complaint as provided under §
23 4-514 of this subtitle to deny, suspend, or revoke a barbershop permit, or reprimand
24 or assess a penalty against the holder of the permit.

25 (2) If the Board does not make the finding, the Board shall dismiss the
26 complaint.

27 [(g)] (E) (1) If the Board makes the finding under subsection [(f)(1)] (D)(1) of
28 this section for a violation that relates to the sanitary condition of the barbershop, the
29 Board shall provide the owner of the barbershop an opportunity to correct the alleged
30 violation.

31 (2) If the barbershop owner fails to correct each alleged violation within
32 10 days of written notification by the Board, the Board shall act on the complaint as
33 provided under § 4-514 of this subtitle.

34 (3) If the barbershop owner corrects each alleged violation within 10
35 days of notice, the Board shall:

- 1 (i) dismiss the complaint; and
2 (ii) provide the barbershop owner written notification of dismissal.
3 4-607.

4 (A) A person who violates any provision of this title is guilty of a misdemeanor
5 and on conviction is subject to a fine not exceeding \$100 or imprisonment not
6 exceeding 30 days or both.

7 (B) (1) EXCEPT AS OTHERWISE PROVIDED BY THIS TITLE, THE BOARD MAY
8 IMPOSE ON A PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE A PENALTY
9 NOT EXCEEDING \$1,000 FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

10 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
11 CONSIDER:

- 12 (I) THE SERIOUSNESS OF THE VIOLATION;
13 (II) THE HARM CAUSED BY THE VIOLATION;
14 (III) THE GOOD FAITH OF THE VIOLATOR;
15 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
16 AND
17 (V) ANY OTHER RELEVANT FACTORS.

18 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
19 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

20 5-314.

21 (a) (1) Subject to the hearing provisions of § 5-315 of this subtitle, the Board
22 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a
23 license if the applicant or licensee:

24 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
25 license for the applicant or licensee or for another;

26 [(2)] (II) fraudulently or deceptively uses a license;

27 [(3)] (III) is incompetent;

28 [(4)] (IV) engages in dishonest, unethical, immoral, or unprofessional
29 conduct;

30 [(5)] (V) is addicted to alcohol or drugs to the extent of being unfit to
31 practice cosmetology;

32 [(6)] (VI) advertises by means of knowingly false or deceptive statements;

1 [(7)] (VII) under the laws of the United States or of any state, is convicted
2 of:

3 [(i)] 1. a felony; or

4 [(ii)] 2. a misdemeanor that is directly related to the fitness and
5 qualification of the applicant or licensee to practice cosmetology; or

6 [(8)] (VIII) violates any provision of this title or any regulation adopted by
7 the Board under this title.

8 [(b)] (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
9 suspending or revoking a license UNDER THIS SUBSECTION, the Board may impose a
10 penalty not exceeding \$300 for all violations cited on a single day.

11 [(c)] (II) [In determining] TO DETERMINE the amount of [financial] THE
12 penalty [to be] imposed under this [section] SUBSECTION, the Board shall consider
13 [the following]:

14 [(1)] 1. the seriousness of the violation;

15 [(2)] 2. the good faith of the violator;

16 [(3)] 3. the violator's history of previous violations;

17 [(4)] 4. the deleterious effect of the violation on the complainant, the
18 public, and the cosmetology industry; and

19 [(5)] 5. any other factors relevant to the determination of the financial
20 penalty.

21 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
22 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

23 [(d)] (B) The Board shall consider the following facts in the granting, denial,
24 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
25 applicant or licensee is convicted of a felony or misdemeanor described in subsection
26 [(a)(7)] (A)(1)(VII) of this section:

27 (1) the nature of the crime;

28 (2) the relationship of the crime to the activities authorized by the
29 license;

30 (3) with respect to a felony, the relevance of the conviction to the fitness
31 and qualification of the applicant or licensee to practice cosmetology;

32 (4) the length of time since the conviction; and

33 (5) the behavior and activities of the applicant or licensee before and
34 after the conviction.

1 [(e)] (C) (1) The Board shall commence proceedings under this section on a
2 complaint to the Board by a member of the Board or any person.

3 (2) A complaint shall:

4 (i) be in writing;

5 (ii) be signed by the complainant;

6 (iii) state specifically the facts on which the complaint is based;

7 (iv) be submitted to the Executive Director of the Board; and

8 (v) be served on the person to whom it is directed:

9 1. personally; or

10 2. by certified mail, return receipt requested, bearing a
11 postmark from the United States Postal Service, to the person's last known address
12 as shown on the Board's records.

13 (3) If service is made by certified mail, the person who mails the
14 document shall file with the Board verified proof of mailing.

15 [(f)] (D) (1) Except as provided in subsection [(g)] (E) of this section, if the
16 Board finds that a complaint alleges facts that are adequate grounds for action under
17 this section, the Board shall act on the complaint as provided under § 5-315 of this
18 subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a
19 penalty.

20 (2) If the Board does not make the finding, the Board shall dismiss the
21 complaint.

22 [(g)] (E) (1) If the Board makes the finding under subsection [(f)(1)] (D)(1) of
23 this section for a violation that relates to the sanitary practice of cosmetology, the
24 Board shall provide the licensee an opportunity to correct the alleged violation.

25 (2) If the licensee fails to correct each alleged violation within 10 days of
26 written notification of the violation by the Board, the Board shall act on the complaint
27 as provided under § 5-315 of this subtitle.

28 (3) If the licensee corrects each alleged violation within 10 days of notice,
29 the Board shall:

30 (i) dismiss the complaint; and

31 (ii) provide the licensee written notification of the dismissal.

1 5-407.

2 (a) (1) Subject to the hearing provisions of § 5-408 of this subtitle, the Board
3 may deny registration as an apprentice to any applicant, reprimand any individual
4 registered as an apprentice, or suspend or revoke the registration of an individual
5 registered as an apprentice:

6 [(1)] (I) for any applicable ground under § 5-314 of this title;

7 [(2)] (II) if the applicant or individual fraudulently or deceptively
8 obtains or attempts to obtain registration for the applicant or individual or for
9 another; or

10 [(3)] (III) if the applicant or individual fraudulently or deceptively uses a
11 certificate of registration.

12 [(b)] (2) (I) Instead of or in addition to REPRIMANDING AN INDIVIDUAL
13 REGISTERED AS AN APPRENTICE OR suspending or revoking a registration, the Board
14 may impose a penalty not exceeding \$300 for all violations cited on a single date.

15 [(c)] (II) [In determining] TO DETERMINE the amount of [financial] penalty
16 [to be] imposed under this [section] SUBSECTION, the Board shall consider [the
17 following]:

18 [(1)] 1. the seriousness of the violation;

19 [(2)] 2. the good faith of the violator;

20 [(3)] 3. the violator's history of previous violations;

21 [(4)] 4. the deleterious effect of the violation on the complainant, the
22 public, and the cosmetology industry; and

23 [(5)] 5. any other factors relevant to the determination of the
24 [financial] penalty.

25 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
26 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

27 [(d)] (B) The Board shall commence proceedings under this section on a
28 complaint to the Board by a member of the Board or any person.

29 (1) A complaint shall:

30 (i) be in writing;

31 (ii) be signed by the complainant;

32 (iii) state specifically the facts on which the complaint is based;

33 (iv) be submitted to the Executive Director of the Board; and

1 (v) be served on the person to whom it is directed:

2 1. personally; or

3 2. by certified mail, return receipt requested, bearing a
4 postmark from the United States Postal Service, to the person's last known address
5 as shown on the Board's records.

6 (2) If service is made by certified mail, the person who mails the
7 document shall file with the Board verified proof of mailing.

8 [(e)] (C) (1) Except as provided in subsection [(f)] (D) of this section, if the
9 Board finds that a complaint alleges facts that are adequate grounds for action under
10 this section, the Board shall act on the complaint as provided under § 5-408 of this
11 subtitle to deny, suspend, or revoke a certificate of registration, reprimand an
12 apprentice, or assess a penalty.

13 (2) If the Board does not make the finding, the Board shall dismiss the
14 complaint.

15 [(f)] (D) (1) If the Board makes the finding under subsection [(e)(1)] (C)(1)
16 of this section for a violation that relates to the sanitary practice of cosmetology, the
17 Board shall provide the apprentice an opportunity to correct the alleged violation.

18 (2) If the apprentice fails to correct each alleged violation within 10 days
19 of written notification of the violation by the Board, the Board shall act on the
20 complaint as provided under § 5-408 of this subtitle.

21 (3) If the apprentice corrects each alleged violation within 10 days of
22 notice, the Board shall:

23 (i) dismiss the complaint; and

24 (ii) provide the apprentice written notification of the dismissal.

25 5-522.

26 (a) (1) Subject to the hearing provisions of § 5-523 of this subtitle, the Board
27 may deny a beauty salon permit to any applicant, reprimand any permit holder, or
28 suspend or revoke a beauty salon permit:

29 [(1)] (I) for any applicable ground under § 5-314 of this title;

30 [(2)] (II) if the applicant or holder fraudulently or deceptively obtains or
31 attempts to obtain a beauty salon permit for the applicant or holder or for another; or

32 [(3)] (III) if the applicant or holder fraudulently or deceptively uses a
33 beauty salon permit.

1 [(b)] (2) (I) Instead of or in addition to REPRIMANDING A PERMIT HOLDER
2 OR suspending or revoking a beauty salon permit, the Board may impose a penalty
3 not exceeding \$300 for all violations cited on a single date.

4 [(c)] (II) [In determining] TO DETERMINE the amount of [financial] penalty
5 [to be] imposed under this [section] SUBSECTION, the Board shall consider [the
6 following]:

7 [(1)] 1. the seriousness of the violation;

8 [(2)] 2. the good faith of the violator;

9 [(3)] 3. the violator's history of previous violations;

10 [(4)] 4. the deleterious effect of the violation on the complainant, the
11 public, and the cosmetology industry; and

12 [(5)] 5. any other factors relevant to the determination of the financial
13 penalty.

14 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
15 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

16 [(d)] (B) The Board shall commence proceedings under this section on a
17 complaint to the Board by a member of the Board or any person.

18 (1) A complaint shall:

19 (i) be in writing;

20 (ii) be signed by the complainant;

21 (iii) state specifically the facts on which the complaint is based;

22 (iv) be submitted to the Executive Director of the Board; and

23 (v) be served on the person to whom it is directed:

24 1. personally; or

25 2. by certified mail, return receipt requested, bearing a
26 postmark from the United States Postal Service, to the person's last known address
27 as shown on the Board's records.

28 (2) If service is made by certified mail, the person who mails the
29 document shall file with the Board verified proof of mailing.

30 [(e)] (C) (1) Except as provided in subsection [(f)] (D) of this section, if the
31 Board finds that a complaint alleges facts that are adequate grounds for action under
32 this section, the Board shall act on the complaint as provided under § 5-523 of this

1 subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a
2 penalty.

3 (2) If the Board does not make the finding, the Board shall dismiss the
4 complaint.

5 [(f)] (D) (1) If the Board makes the finding under subsection [(e)(1)] (C)(1)
6 of this section for a violation that relates to the sanitary condition of a beauty salon or
7 the sanitary practice of cosmetology, the Board shall provide the owner of the salon an
8 opportunity to correct the alleged violation.

9 (2) If the owner fails to correct each alleged violation within 10 days of
10 written notification of the violation by the Board, the Board shall act on the complaint
11 as provided under § 5-523 of this subtitle.

12 (3) If the owner corrects each alleged violation within 10 days of notice,
13 the Board shall:

14 (i) dismiss the complaint; and

15 (ii) provide the owner written notification of the dismissal.

16 5-609.

17 (A) A person who violates any provision of this title is guilty of a misdemeanor
18 and on conviction is subject to a fine not exceeding \$100 or imprisonment not
19 exceeding 30 days or both.

20 (B) (1) EXCEPT AS OTHERWISE PROVIDED BY THIS TITLE, THE BOARD MAY
21 IMPOSE ON A PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE A PENALTY
22 NOT EXCEEDING \$1,000 FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

23 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
24 CONSIDER:

25 (I) THE SERIOUSNESS OF THE VIOLATION;

26 (II) THE HARM CAUSED BY THE VIOLATION;

27 (III) THE GOOD FAITH OF THE VIOLATOR;

28 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

29 AND

30 (V) ANY OTHER RELEVANT FACTORS.

31 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
32 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

1 7-309.

2 (a) (1) Subject to the hearing provisions of § 7-311 of this subtitle, the
3 Board, on the affirmative vote of a majority of its authorized members, may deny a
4 license to any applicant, reprimand any licensee, or suspend or revoke a license if the
5 applicant or licensee:

6 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
7 license for the applicant or licensee or for another;

8 [(2)] (II) fraudulently or deceptively uses a license;

9 [(3)] (III) is guilty of gross negligence, incompetence, or misconduct in
10 practicing forestry;

11 [(4)] (IV) under the laws of the United States or of any state is convicted
12 of:

13 [(i)] 1. a felony; or

14 [(ii)] 2. a misdemeanor that is directly related to the fitness and
15 qualification of the applicant or licensee to practice forestry;

16 [(5)] (V) has had a license to practice forestry in another state revoked or
17 suspended by the other state for a cause that would justify revocation or suspension
18 under this title, except for the failure to pay a license or registration renewal fee;

19 [(6)] (VI) knowingly violates any provision of the code of ethics adopted by
20 the Board; or

21 [(7)] (VII) knowingly violates any provision of this title.

22 (2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE
23 OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE BOARD
24 MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

25 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
26 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

27 1. THE SERIOUSNESS OF THE VIOLATION;

28 2. THE HARM CAUSED BY THE VIOLATION;

29 3. THE GOOD FAITH OF THE LICENSEE; AND

30 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
31 LICENSEE.

32 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
33 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

1 (b) The Board shall consider the following facts in the granting, denial,
2 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
3 applicant or licensee is convicted of a felony or misdemeanor described in subsection
4 [(a)(4)] (A)(1)(IV) of this section:

5 (1) the nature of the crime;

6 (2) the relationship of the crime to the activities authorized by the
7 license;

8 (3) with respect to a felony, the relevance of the conviction to the fitness
9 and qualification of the applicant or licensee to practice forestry;

10 (4) the length of time since the conviction; and

11 (5) the behavior and activities of the applicant or licensee before and
12 after the conviction.

13 7-506.

14 (A) A person who violates any provision of this title is guilty of a misdemeanor
15 and on conviction is subject to a fine not exceeding \$5,000.

16 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY
17 PROVISION OF THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

18 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
19 CONSIDER:

20 (I) THE SERIOUSNESS OF THE VIOLATION;

21 (II) THE HARM CAUSED BY THE VIOLATION;

22 (III) THE GOOD FAITH OF THE VIOLATOR;

23 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

24 AND

25 (V) ANY OTHER RELEVANT FACTORS.

26 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
27 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

28 8-310.

29 (a) (1) Subject to the hearing provisions of § 8-312 of this subtitle, the Board
30 may deny a certificate to any applicant, reprimand any certificate holder, or suspend
31 or revoke a certificate if the applicant or certificate holder:

32 [(1)] (I) fraudulently or deceptively obtains or renews or attempts to
33 obtain or renew a certificate for the applicant or certificate holder or for another;

1 (3) with respect to a felony, the relevance of the conviction to the fitness
2 and qualification of the applicant or licensee to perform interior design services;

3 (4) the length of time since the conviction; and

4 (5) the behavior and activities of the applicant or certificate holder
5 before and after the conviction.

6 8-502.

7 (A) A person who violates § 8-501 of this subtitle is guilty of a misdemeanor
8 and on conviction is subject to a fine not exceeding \$1,000.

9 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES § 8-501 OF
10 THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

11 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
12 CONSIDER:

13 (I) THE SERIOUSNESS OF THE VIOLATION;

14 (II) THE HARM CAUSED BY THE VIOLATION;

15 (III) THE GOOD FAITH OF THE VIOLATOR;

16 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

17 AND

18 (V) ANY OTHER RELEVANT FACTORS.

19 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
20 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

21 9-310.

22 (a) (1) Subject to the hearing provisions of § 9-312 of this subtitle, the
23 Board, on the affirmative vote of a majority of its members then serving, may deny a
24 license to any applicant, reprimand any licensee, or suspend or revoke a license if:

25 [(1)] (I) the applicant or licensee fraudulently or deceptively obtains or
26 attempts to obtain a license for the applicant or licensee or for another;

27 [(2)] (II) the applicant or licensee fraudulently or deceptively uses a
28 license;

29 [(3)] (III) under the laws of the United States or of any state, the
30 applicant or licensee is convicted of:

31 [(i)] 1. a felony; or

1 [(ii)] 2. a misdemeanor that is directly related to the fitness and
2 qualification of the applicant or licensee to practice landscape architecture;

3 [(4)] (IV) the applicant or licensee is guilty of gross negligence,
4 incompetence, or misconduct while practicing landscape architecture;

5 [(5)] (V) the applicant or licensee has had a license to practice landscape
6 architecture in another state revoked or suspended by the other state for a cause that
7 would justify revocation or suspension under this title, except for the failure to pay a
8 license or license renewal fee;

9 [(6)] (VI) the applicant or licensee knowingly violates any provision of the
10 code of ethics adopted by the Board; or

11 [(7)] (VII) the applicant or licensee knowingly violates any provision of
12 this title.

13 [(b) (1)] (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
14 suspending or revoking a license UNDER THIS SUBSECTION, the Board may impose a
15 penalty not exceeding [\$1,000] \$5,000 for each violation.

16 [(2)] (II) To determine the amount of the penalty imposed under this
17 subsection, the Board shall consider:

18 [(i)] 1. the seriousness of the violation;

19 [(ii)] 2. the harm caused by the violation;

20 [(iii)] 3. the good faith of the licensee; and

21 [(iv)] 4. any history of previous violations by the licensee.

22 (3) The Board shall pay any penalty collected under this subsection into
23 the General Fund of the State.

24 [(c)] (B) The Board shall consider the following facts in the granting, denial,
25 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
26 applicant or licensee is convicted of a felony or misdemeanor described in subsection
27 [(a)(3)] (A)(1)(III) of this section:

28 (1) the nature of the crime;

29 (2) the relationship of the crime to the activities authorized by the
30 license;

31 (3) with respect to a felony, the relevance of the conviction to the fitness
32 and qualification of the applicant or licensee to practice landscape architecture;

33 (4) the length of time since the conviction; and

1 (5) the behavior and activities of the applicant or licensee before and
2 after the conviction.

3 9-605.

4 (a) A person who violates any provision of this title is guilty of a misdemeanor
5 and on conviction is subject to a fine not exceeding \$3,000 or imprisonment not
6 exceeding 1 year or both.

7 (b) (1) The Board may impose on a person who violates any provision of this
8 title a [civil] penalty not exceeding [\$1,000] \$5,000 for each violation.

9 (2) In setting the amount of the penalty, the Board shall consider:

10 (i) the seriousness of the violation;

11 (ii) the harm caused by the violation;

12 (iii) the good faith of the violator;

13 (iv) any history of previous violations by the violator; and

14 (v) any other relevant factors.

15 (3) The Board shall pay any penalty collected under this subsection into
16 the General Fund of the State.

17 12-312.

18 (a) (1) Subject to the hearing provisions of § 12-313 of this subtitle, the
19 Board may deny a license to any applicant, reprimand any licensee, or suspend or
20 revoke a license if the applicant or licensee:

21 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
22 license for the applicant or licensee or for another;

23 [(2)] (II) fraudulently or deceptively uses a license;

24 [(3)] (III) is guilty of gross negligence, incompetence, or misconduct while
25 providing plumbing services or assisting in providing plumbing services;

26 [(4)] (IV) is guilty of violating the State Plumbing Code or applicable local
27 plumbing code while providing plumbing services or assisting in providing plumbing
28 services;

29 [(5)] (V) under the laws of the United States or of any state, is convicted
30 of:

31 [(i)] 1. a felony; or

1 [(ii)] 2. a misdemeanor that is directly related to the fitness and
2 qualification of the applicant or licensee to provide plumbing services;

3 [(6)] (VI) is guilty of an unfair or deceptive trade practice, as defined in §
4 13-301 of the Commercial Law Article;

5 [(7)] (VII) fails to train and control adequately any person who, while
6 under the direction and control of the master plumber or holder of a limited master
7 plumber license, sells or gives estimates for providing plumbing services;

8 [(8)] (VIII) fails to maintain the liability insurance required under §
9 12-501 of this title for a master plumber, holder of a limited master plumber license
10 who contracts to provide plumbing services on behalf of the master plumber, holder of
11 a limited master plumber license, or another, holder of a propane gas fitter certificate,
12 or holder of a master natural gas fitters license; [or]

13 [(9)] (IX) is guilty of violating § 12-605 of this title;

14 (X) AS THE HOLDER OF A LIMITED LICENSE, PROPANE GAS FITTER
15 CERTIFICATE, MASTER NATURAL GAS FITTERS LICENSE, JOURNEY PLUMBER
16 LICENSE, JOURNEYMAN NATURAL GAS FITTERS LICENSE, APPRENTICE PLUMBER
17 LICENSE, OR APPRENTICE NATURAL GAS FITTERS LICENSE, PERFORMS PLUMBING,
18 PROPANE GAS FITTING, OR NATURAL GAS FITTING SERVICES OUTSIDE THE SCOPE
19 OF THAT LICENSE; OR

20 (XI) KNOWINGLY ALLOWS OR PERMITS ANOTHER LICENSEE TO
21 PERFORM PLUMBING, PROPANE GAS FITTING, OR NATURAL GAS FITTING SERVICES
22 OUTSIDE THE SCOPE OF THAT INDIVIDUAL'S LICENSE.

23 (2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE
24 OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE BOARD
25 MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

26 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
27 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

- 28 1. THE SERIOUSNESS OF THE VIOLATION;
- 29 2. THE HARM CAUSED BY THE VIOLATION;
- 30 3. THE GOOD FAITH OF THE LICENSEE; AND
- 31 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
32 LICENSEE.

33 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
34 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

35 (b) The Board shall consider the following facts in the granting, denial,
36 renewal, suspension, or revocation of a license or the reprimand of a licensee when an

1 applicant or licensee is convicted of a felony or misdemeanor described in subsection
2 [(a)(5)] (A)(1)(V) of this section:

3 (1) the nature of the crime;

4 (2) the relationship of the crime to the activities authorized by the
5 license;

6 (3) with respect to a felony, the relevance of the conviction to the fitness
7 and qualification of the applicant or licensee to provide plumbing services;

8 (4) the length of time since the conviction; and

9 (5) the behavior and activities of the applicant or licensee before and
10 after the conviction.

11 12-607.

12 (a) (1) In this subsection, "officer" includes a superintendent, manager, and
13 agent of a corporation regardless of whether it engages in the business of providing
14 plumbing services.

15 (2) A person, including an officer, who violates any provision of the
16 following sections of this subtitle is guilty of a misdemeanor and on conviction is
17 subject to a fine not exceeding \$50 for each day or part of each day that the violation
18 continues:

19 (i) § 12-602;

20 (ii) § 12-603; and

21 (iii) § 12-604.

22 (b) A person who violates any provision of the following sections of this
23 subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
24 \$100 or imprisonment not exceeding 6 months or both for each day or part of each day
25 that the violation continues:

26 (1) § 12-601;

27 (2) § 12-605; and

28 (3) § 12-606.

29 (c) Any person who knowingly and willfully violates any provision of §
30 12-501(a) of this title is guilty of a misdemeanor and on conviction is subject to a fine
31 not exceeding \$1,000 or imprisonment not exceeding 6 months or both.

32 (d) (1) In addition to any other penalties under this title, the Board may
33 impose on a person who violates [§ 12-601] ANY PROVISION of this subtitle a penalty
34 not exceeding [\$1,000] \$5,000 for each violation.

1 (2) In [determining] SETTING the [appropriate] amount of [a fine
2 imposed under paragraph (1) of this subsection] THE PENALTY, the Board shall
3 consider:

- 4 (i) the gravity of the violation;
- 5 (ii) the good faith of the violator;
- 6 (iii) the quantity and gravity of previous violations by the same
7 violator;
- 8 (iv) the harm caused to the complainant, the public, and the
9 plumbing profession;
- 10 (v) the assets of the violator; and
- 11 (vi) any other factors that the Board considers relevant.

12 14-317.

13 (a) (1) Subject to the hearing provisions of § 14-319 of this subtitle, the
14 Board, on the affirmative vote of a majority of its members then serving, may deny a
15 license to any applicant, reprimand any licensee, or suspend or revoke a license if:

16 [(1)] (I) the applicant or licensee fraudulently or deceptively obtains or
17 attempts to obtain a license for the applicant or licensee or for another;

18 [(2)] (II) the applicant or licensee fraudulently or deceptively uses a
19 license;

20 [(3)] (III) under the laws of the United States or of any state, the
21 applicant or licensee is convicted of:

22 [(i)] 1. a felony; or

23 [(ii)] 2. a misdemeanor that is directly related to the fitness and
24 qualification of the applicant or licensee to practice engineering;

25 [(4)] (IV) the applicant or licensee is guilty of gross negligence,
26 incompetence, or misconduct while practicing engineering;

27 [(5)] (V) the applicant or licensee has had a license to practice
28 engineering in another state revoked or suspended by the other state for a cause that
29 would justify revocation or suspension under this title, except for the failure to pay a
30 license or license renewal fee;

31 [(6)] (VI) the applicant or licensee knowingly violates any provision of the
32 code of ethics adopted by the Board; or

33 [(7)] (VII) the applicant or licensee knowingly violates any provision of
34 this title.

1 [(b) (1)] (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
2 suspending or revoking a license UNDER THIS SUBSECTION, the Board may impose a
3 penalty not exceeding [\$1,000] \$5,000 for each violation.

4 [(2)] (II) To determine the amount of the penalty imposed under this
5 subsection, the Board shall consider:

6 [(i)] 1. the seriousness of the violation;

7 [(ii)] 2. the harm caused by the violation;

8 [(iii)] 3. the good faith of the licensee; and

9 [(iv)] 4. any history of previous violations by the licensee.

10 (3) The Board shall pay any penalty collected under this subsection into
11 the General Fund of the State.

12 [(c)] (B) The Board shall consider the following facts in the granting, denial,
13 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
14 applicant or licensee is convicted of a felony or misdemeanor described in subsection
15 [(a)(3)] (A)(1)(III) of this section:

16 (1) the nature of the crime;

17 (2) the relationship of the crime to the activities authorized by the
18 license;

19 (3) with respect to a felony, the relevance of the conviction to the fitness
20 and qualification of the applicant or licensee to practice engineering;

21 (4) the length of time since the conviction; and

22 (5) the behavior and activities of the applicant or licensee before and
23 after the conviction.

24 14-508.

25 (a) A person who violates any provision of this title is guilty of a misdemeanor
26 and on conviction is subject to a fine not exceeding \$500 or imprisonment not
27 exceeding 6 months or both.

28 (b) (1) The Board may impose on a person who violates any provision of this
29 title a [civil] penalty not exceeding [\$1,000] \$5,000 for each violation.

30 (2) In setting the amount of the penalty, the Board shall consider:

31 (i) the seriousness of the violation;

32 (ii) the harm caused by the violation;

- 1 (iii) the good faith of the violator;
- 2 (iv) any history of previous violations by the violator; and
- 3 (v) any other relevant factors.

4 (3) The Board shall pay any penalty collected under this subsection into
5 the General Fund of the State.

6 15-318.

7 (a) (1) Subject to the hearing provisions of § 15-320 of this subtitle, the
8 Board, on the affirmative vote of a majority of its members then serving, may deny a
9 license to any applicant, reprimand any licensee, or suspend or revoke a license if:

10 [(1)] (I) the applicant or licensee fraudulently or deceptively obtains,
11 renews, or attempts to obtain or renew a license or permit for the applicant or licensee
12 or for another;

13 [(2)] (II) the applicant or licensee fraudulently or deceptively uses a
14 license;

15 [(3)] (III) under the laws of the United States or of any state, the
16 applicant or licensee is convicted of:

17 [(i)] 1. a felony; or

18 [(ii)] 2. a misdemeanor that is directly related to the fitness and
19 qualification of the applicant or licensee to practice land surveying or property line
20 surveying;

21 [(4)] (IV) the applicant or licensee is guilty of gross negligence,
22 incompetence, or misconduct while practicing land surveying or property line
23 surveying;

24 [(5)] (V) the applicant or licensee knowingly violates any provision of the
25 code of ethics adopted by the Board;

26 [(6)] (VI) the applicant or licensee knowingly violates any provision of
27 this title; or

28 [(7)] (VII) the applicant or licensee has had a license to practice land
29 surveying or property line surveying in another state revoked or suspended by the
30 other state for a cause that would justify revocation or suspension under this title,
31 except for the failure to pay a license or license renewal fee.

32 [(b) (1)] (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
33 suspending or revoking a license UNDER THIS SUBSECTION, the Board may impose a
34 penalty not exceeding [\$1,000] \$5,000 for each violation.

1 [(2)] (II) To determine the amount of the penalty imposed under this
2 subsection, the Board shall consider:

- 3 [(i)] 1. the seriousness of the violation;
- 4 [(ii)] 2. the harm caused by the violation;
- 5 [(iii)] 3. the good faith of the licensee; and
- 6 [(iv)] 4. any history of previous violations by the licensee.

7 (3) The Board shall pay any penalty collected under this subsection into
8 the General Fund of the State.

9 (c) The Board shall consider the following facts in the granting, denial,
10 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
11 applicant or licensee is convicted of a felony or misdemeanor described in subsection
12 [(a)(3)] (A)(1)(III) of this section:

- 13 (1) the nature of the crime;
- 14 (2) the relationship of the crime to the activities authorized by the
15 license;
- 16 (3) with respect to a felony, the relevance of the conviction to the fitness
17 and qualification of the applicant or licensee to practice land surveying or property
18 line surveying;
- 19 (4) the length of time since the conviction; and
- 20 (5) the behavior and activities of the applicant or licensee before and
21 after the conviction.

22 15-610.

23 (a) A person who violates any provision of this title is guilty of a misdemeanor
24 and on conviction is subject to a fine not exceeding \$500 or imprisonment not
25 exceeding 6 months or both.

26 (b) (1) The Board may impose on a person who violates any provision of this
27 title a [civil] penalty not exceeding [\$1,000] \$5,000 for each violation.

28 (2) In setting the amount of [a civil] THE penalty, the Board shall
29 consider:

- 30 (i) the seriousness of the violation;
- 31 (ii) the harm caused by the violation;
- 32 (iii) the good faith of the violator;

1 (iv) any history of previous violations by the violator; and

2 (v) any other relevant factors.

3 (3) The Board shall pay any penalty collected under this subsection into
4 the General Fund of the State.

5 16-701.

6 (a) (1) Subject to the hearing provisions of § 16-602 of this title, the
7 Commission may deny a license to any applicant, deny a certificate to any applicant,
8 reprimand any licensee, reprimand any certificate holder, OR suspend or revoke a
9 license or certificate[, or impose a fine of not more than \$5,000,] if the applicant,
10 license holder, or certificate holder:

11 [(1)] (I) fraudulently or deceptively obtains or attempts to obtain a
12 license or certificate for the applicant, licensee, certificate holder, or for another;

13 [(2)] (II) fraudulently or deceptively uses a license or certificate;

14 [(3)] (III) commits an act or makes an omission in the provision of real
15 estate appraisal services or certified real estate appraisal services that is an act of
16 dishonesty, fraud, or misrepresentation if the applicant, licensee, or certificate holder
17 intends:

18 [(i)] 1. to benefit substantially the applicant, licensee, certificate
19 holder, or another person; or

20 [(ii)] 2. to injure substantially another person;

21 [(4)] (IV) is held civilly or criminally liable for deceit, fraud, or
22 misrepresentation in the provision of real estate appraisal services or certified real
23 estate appraisal services;

24 [(5)] (V) under the laws of the United States or of any state, is convicted
25 of:

26 [(i)] 1. a felony; or

27 [(ii)] 2. a misdemeanor that is directly related to the fitness and
28 qualification of the applicant, licensee, or certificate holder to provide real estate
29 appraisal services;

30 [(6)] (VI) pays a finder's fee or a referral fee to a person who lacks a
31 license;

32 [(7)] (VII) makes a false or misleading statement in:

33 [(i)] 1. the part of a written appraisal report about professional
34 qualifications; or

1 [(ii)] 2. testimony about professional qualifications;

2 [(8)] (VIII) violates the confidential nature of governmental records to
3 which a licensee or certificate holder gained access in the provision of real estate
4 appraisal services or certified real estate services;

5 [(9)] (IX) accepts a fee for providing an independent appraisal service in
6 violation of this title;

7 [(10)] (X) fails to exercise reasonable diligence to develop, prepare, or
8 communicate an appraisal;

9 [(11)] (XI) commits negligence or incompetence in developing, preparing,
10 or communicating an appraisal;

11 [(12)] (XII) violates any other provision of this title; or

12 [(13)] (XIII) violates any regulation adopted under this title.

13 (2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE
14 OR A CERTIFICATE HOLDER OR SUSPENDING OR REVOKING A LICENSE OR A
15 CERTIFICATE UNDER THIS SUBSECTION, THE BOARD MAY IMPOSE A PENALTY NOT
16 EXCEEDING \$5,000 FOR EACH VIOLATION.

17 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE
18 BOARD SHALL CONSIDER:

- 19 1. THE SERIOUSNESS OF THE VIOLATION;
- 20 2. THE HARM CAUSED BY THE VIOLATION;
- 21 3. THE GOOD FAITH OF THE LICENSEE; AND
- 22 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
23 LICENSEE.

24 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
25 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

26 (b) The Commission shall consider the following facts in the granting, denial,
27 renewal, suspension, or revocation of a license or certificate or the reprimand of a
28 licensee or certificate holder when an applicant, certificate holder, or licensee is
29 convicted of a felony or a misdemeanor described in subsection [(a)(5)] (A)(1)(V) of this
30 section:

31 (1) the nature of the crime;

32 (2) the relationship of the crime to the activities authorized by the
33 license or certificate;

1 (3) with respect to a felony, the relevance of the conviction to the fitness
2 and qualification of the applicant, licensee, or certificate holder to provide real estate
3 appraisal services;

4 (4) the length of time since the conviction; and

5 (5) the behavior and activities of the applicant, licensee, or certificate
6 holder before and after the conviction.

7 16-706.

8 (A) A person who violates any provision of this title is guilty of a misdemeanor
9 and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not
10 exceeding 1 year or both.

11 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY
12 PROVISION OF THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

13 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
14 CONSIDER:

15 (I) THE SERIOUSNESS OF THE VIOLATION;

16 (II) THE HARM CAUSED BY THE VIOLATION;

17 (III) THE GOOD FAITH OF THE VIOLATOR;

18 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

19 AND

20 (V) ANY OTHER RELEVANT FACTORS.

21 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
22 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

23 17-322.

24 (a) In this section, "handicap" and "familial status" each have the meanings
25 indicated in the federal Fair Housing Act.

26 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the
27 Commission may deny a license to any applicant, reprimand any licensee, or suspend
28 or revoke a license if the applicant or licensee:

29 (1) fraudulently or deceptively obtains or attempts to obtain a license for
30 the applicant or licensee or for another;

31 (2) fraudulently or deceptively uses a license;

32 (3) directly or through another person willfully makes a
33 misrepresentation or knowingly makes a false promise;

1 (4) intentionally or negligently fails to disclose to any person with whom
2 the applicant or licensee deals a material fact that the licensee knows or should know
3 and that relates to the property with which the licensee or applicant deals;

4 (5) as an associate real estate broker or a real estate salesperson,
5 provides or attempts to provide real estate brokerage services on behalf of a real
6 estate broker without informing in writing any other real estate broker with whom
7 the associate real estate broker or the real estate salesperson is affiliated;

8 (6) violates § 17-530(c) or (d) of this title;

9 (7) retains or attempts to retain the services of any unlicensed individual
10 as an associate real estate broker or a real estate salesperson to evade the law
11 prohibiting payment of a commission to an unlicensed individual;

12 (8) guarantees or authorizes or allows another person to guarantee
13 future profits from the resale of real property;

14 (9) solicits, sells, or offers to sell real property, so as to influence or
15 attempt to influence a prospective party to the sale of real property, by:

16 (i) offering a prize or a free lot;

17 (ii) conducting a lottery or contest; or

18 (iii) advertising "free appraisals", unless the advertiser is prepared
19 to appraise the real estate free of charge for any person, regardless of the purpose for
20 which the person requests the appraisal;

21 (10) accepts a listing contract to sell real property that fails to provide a
22 definite termination date that is effective automatically without notice from the
23 buyer or the seller;

24 (11) accepts a listing contract to sell real property that provides for a "net"
25 return to a seller and leaves the licensee free to sell the real property at any price
26 higher than the "net" price;

27 (12) knowingly solicits a party to an exclusive listing contract with
28 another licensee to terminate that contract and enter a new contract with the licensee
29 making the solicitation;

30 (13) solicits a party to a sales contract, lease, or agreement that was
31 negotiated by another to breach the contract, lease, or agreement for the purpose of
32 substituting a new contract, lease, or agreement for which the licensee making the
33 solicitation is either the real estate broker or an associate real estate broker or a real
34 estate salesperson affiliated with the real estate broker;

35 (14) for any transaction in which the licensee has served as or on behalf of
36 a real estate broker, fails to furnish promptly to each party to the transaction a copy
37 of:

1 (i) the listing contract to sell or rent real property;
2 (ii) the contract of sale; or
3 (iii) the lease agreement;
4 (15) for any transaction in which the licensee has served as or on behalf of
5 a real estate broker, fails to keep a copy of any executed:

6 (i) listing contract to sell or rent real property;
7 (ii) contract of sale; or
8 (iii) lease agreement;

9 (16) whether or not acting for monetary gain, knowingly induces or
10 attempts to induce a person to transfer real estate or discourages or attempts to
11 discourage a person from buying real estate:

12 (i) by making representations about the existing or potential
13 proximity of real property owned or used by individuals of a particular race, color,
14 religion, sex, handicap, familial status, or national origin; or

15 (ii) by representing that the existing or potential proximity of real
16 property owned or used by individuals of a particular race, color, religion, sex,
17 handicap, familial status, or national origin will or may result in:

18 1. the lowering of property values;
19 2. a change in the racial, religious, or ethnic character of the
20 block, neighborhood, or area;
21 3. an increase in criminal or antisocial behavior in the area;
22 or
23 4. a decline in the quality of the schools serving the area;

24 (17) uses any of the following material if it includes the name of an
25 organization or association of which the licensee is not a member:

26 (i) a contract form for the listing of real property for sale, rent, or
27 exchange;

28 (ii) a contract form for the sale, rent, or exchange of real property;
29 or

30 (iii) any advertising matter;

31 (18) as a real estate broker, an associate real estate broker, or a real estate
32 salesperson, advertises the sale or rent of or an offer to buy real property while failing
33 to disclose in the advertisement the name of the advertiser and the fact that the

1 advertiser is a real estate broker, an associate real estate broker, or a real estate
2 salesperson;

3 (19) advertises in any misleading or untruthful manner;

4 (20) as a licensed associate real estate broker or a licensed real estate
5 salesperson, advertises the sale or rent of or an offer to buy real property in the name
6 of the associate broker or the salesperson while failing to disclose in the
7 advertisement the name of the real estate broker on behalf of whom the associate
8 broker or the salesperson is acting;

9 (21) for real estate brokerage services provided by an associate real estate
10 broker or a real estate salesperson, accepts a commission or other valuable
11 consideration from any person other than a real estate broker with whom the
12 associate broker or the salesperson is affiliated;

13 (22) fails to account for or to remit promptly any money that comes into
14 the possession of the licensee but belongs to another person;

15 (23) pays or receives a rebate, profit, compensation, or commission in
16 violation of any provision of this title;

17 (24) under the laws of the United States or of any state, is convicted of:

18 (i) a felony;

19 (ii) a misdemeanor that is directly related to the fitness and
20 qualification of the applicant or licensee to provide real estate brokerage services; or

21 (iii) a crime that constitutes a violation of any provision of this title;

22 (25) engages in conduct that demonstrates bad faith, incompetency, or
23 untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;

24 (26) with actual knowledge of the violation, associates with a licensee in a
25 transaction or practice that violates any provision of this title;

26 (27) violates § 17-320(c) of this subtitle by failing as a real estate broker
27 to exercise reasonable and adequate supervision over the provision of real estate
28 brokerage services by another individual on behalf of the broker;

29 (28) provides to a party a contract that does not contain a notice of the
30 buyer's right of selection, as required by § 17-524 of this title;

31 (29) requires a buyer to employ a particular title insurance company,
32 settlement company, escrow company, or title lawyer in violation of § 17-607 of this
33 title;

34 (30) fails to make the disclosure or provide the consent form required by §
35 17-530 of this title;

1 (31) violates any provision of Subtitle 5 of this title that relates to trust
2 money;

3 (32) violates any other provision of this title;

4 (33) violates any regulation adopted under this title or any provision of
5 the code of ethics; or

6 (34) violates § 17-320(d) of this subtitle by failing as a branch office
7 manager to exercise reasonable and adequate supervision over the provision of real
8 estate brokerage services by any sales agent or associate broker registered with that
9 office.

10 (c) (1) Instead of or in addition to REPRIMANDING A LICENSEE OR
11 suspending or revoking a license UNDER THIS SECTION, the Commission may impose
12 a penalty not exceeding [\$2,000] \$5,000 for each violation.

13 (2) To determine the amount of the penalty imposed [under this
14 subsection], the Commission shall consider:

15 (i) the seriousness of the violation;

16 (ii) the harm caused by the violation;

17 (iii) the good faith of the licensee; and

18 (iv) any history of previous violations by the licensee.

19 (3) The Commission shall pay any penalty collected under this
20 subsection into the General Fund of the State.

21 (d) The Commission shall consider the following facts in the granting, denial,
22 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
23 applicant or licensee is convicted of a felony or misdemeanor described in subsection
24 (b)(24)(i) and (ii) of this section:

25 (1) the nature of the crime;

26 (2) the relationship of the crime to the activities authorized by the
27 license;

28 (3) with respect to a felony, the relevance of the conviction to the fitness
29 and qualification of the applicant or licensee to provide real estate brokerage services;

30 (4) the length of time since the conviction; and

31 (5) the behavior and activities of the applicant or licensee before and
32 after the conviction.

1 17-613.

2 (a) A person who violates any provision of the following sections of this title is
3 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or
4 imprisonment not exceeding 1 year or both:

5 (1) § 17-502;

6 (2) § 17-525;

7 (3) § 17-526;

8 (4) § 17-527;

9 (5) § 17-601;

10 (6) § 17-602;

11 (7) § 17-603;

12 (8) § 17-604;

13 (9) § 17-605;

14 (10) § 17-606;

15 (11) § 17-607;

16 (12) § 17-608;

17 (13) § 17-609;

18 (14) § 17-610; and

19 (15) § 17-611.

20 (b) A corporation, partnership, or other association that violates § 17-612 of
21 this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not
22 exceeding \$5,000.

23 (C) (1) THE COMMISSION MAY IMPOSE ON A PERSON WHO VIOLATES ANY
24 PROVISION OF THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

25 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
26 CONSIDER:

27 (I) THE SERIOUSNESS OF THE VIOLATION;

28 (II) THE HARM CAUSED BY THE VIOLATION;

29 (III) THE GOOD FAITH OF THE VIOLATOR;

1 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

2 AND

3 (V) ANY OTHER RELEVANT FACTORS.

4 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
5 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

6 **Article - Business Regulation**

7 4-310.

8 (a) (1) Subject to the hearing provisions of § 4-311 of this subtitle, the
9 Commission may deny a license to an applicant, reprimand a licensee, or suspend or
10 revoke a license if the applicant or licensee:

11 (i) fraudulently or deceptively obtains or attempts to obtain a
12 license for the applicant or licensee or for another person;

13 (ii) fraudulently or deceptively uses a license;

14 (iii) violates this title; or

15 (iv) violates a regulation adopted under this title.

16 (2) (I) Instead of or in addition to REPRIMANDING A LICENSEE OR
17 suspending or revoking a license under this subsection, the Commission may impose
18 a penalty of up to [\$2,000] \$5,000 for each violation.

19 [(3)] (II) To determine the amount of the penalty IMPOSED UNDER THIS
20 SUBSECTION, the Commission shall consider:

21 [(i)] 1. the seriousness of the violation;

22 [(ii)] 2. the good faith of the violator;

23 [(iii)] 3. any previous violations;

24 [(iv)] 4. the assets of the violator; and

25 [(v)] 5. the harmful effect of the violation on the general public
26 and the sporting industry.

27 (b) In addition to the grounds in subsection (a) of this section, the Commission
28 may deny a boxer or kick boxer license to an applicant or suspend or revoke a boxer or
29 kick boxer license if the Commission finds that the applicant or licensee is not fit,
30 based on the neurological examination required under §§ 4-304 and 4-314 of this
31 subtitle and the recommendation of the physician who made the examination.

32 (c) Subject to the hearing provisions of § 4-311 of this subtitle, the
33 Commission shall suspend or revoke a boxer or kick boxer license and the boxer or

1 kick boxer shall forfeit the boxer's purse or other compensation from the contest if the
2 boxer or kick boxer:

3 (1) refuses to submit to the urine test required under § 4-315(b) of this
4 subtitle; or

5 (2) submits a urine sample that tests positive for the presence of a
6 controlled dangerous substance defined under Article 27, § 277 of the Code or other
7 substance that the Commission prohibits by regulation.

8 (d) (1) Subject to the hearing provisions of § 4-311 of this subtitle, the
9 Commission shall deny a promoter license to an applicant or revoke a promoter
10 license if the applicant or licensee:

11 (i) fails to pay the boxing and wrestling tax required under Title 6
12 or Title 13 of the Tax - General Article; or

13 (ii) holds or participates in a fake boxing or wrestling contest.

14 (2) If a person fails to pay the boxing and wrestling tax, the Commission
15 shall:

16 (i) impose a penalty of \$500; and

17 (ii) act to enforce the bond of the promoter.

18 4-322.

19 (A) A person who violates this subtitle is guilty of a misdemeanor and, on
20 conviction, is subject to a fine not exceeding \$2,000, six months imprisonment, or
21 both.

22 (B) (1) THE COMMISSION MAY IMPOSE ON A PERSON WHO VIOLATES ANY
23 PROVISION OF THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

24 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE COMMISSION
25 SHALL CONSIDER:

26 (I) THE SERIOUSNESS OF THE VIOLATION;

27 (II) THE HARM CAUSED BY THE VIOLATION;

28 (III) THE GOOD FAITH OF THE VIOLATOR;

29 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

30 AND

31 (V) ANY OTHER RELEVANT FACTORS.

32 (3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER
33 THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

1 9A-310.

2 (a) (1) The Board may deny a license to any applicant, reprimand any
3 licensee, or suspend or revoke a license after a public hearing conducted in accordance
4 with the provisions of § 9A-311 of this title, if the Board finds that the individual:

5 [(1)] (I) obtained a license by false or fraudulent representation;

6 [(2)] (II) transferred the authority granted by the license to another
7 person;

8 [(3)] (III) willfully or deliberately disregarded and violated the code
9 established by the Board under this title;

10 [(4)] (IV) willfully or deliberately disregarded and violated building
11 codes, electrical codes, or laws of the State or of any municipality, city, or county of the
12 State;

13 [(5)] (V) under the laws of the United States or of any state, is convicted
14 of:

15 [(i)] 1. a felony; or

16 [(ii)] 2. a misdemeanor that is directly related to the fitness and
17 qualification of the applicant or licensee to provide heating, ventilation,
18 air-conditioning, or refrigeration services;

19 [(6)] (VI) aided or abetted a person to evade a provision of this title by
20 allowing a license to be used by an unlicensed person, firm, or corporation;

21 [(7)] (VII) willfully or deliberately disregarded disciplinary action taken
22 by a municipality, city, or county against the individual in connection with providing
23 heating, ventilation, air-conditioning, or refrigeration services;

24 [(8)] (VIII) abandoned or failed to perform, without justification, any
25 contract or project to provide heating, ventilation, air-conditioning, or refrigeration
26 services;

27 [(9)] (IX) performed work under a heating, ventilation, air-conditioning,
28 or refrigeration services contract or project that is inadequate or incomplete;

29 [(10)] (X) directly or indirectly published any advertisement relating to
30 the providing of heating, ventilation, air-conditioning, or refrigeration services that
31 contained an insertion, representation, or statement of fact that is false, deceptive, or
32 misleading;

33 [(11)] (XI) made any material misrepresentation in the procurement of a
34 heating, ventilation, air-conditioning, or refrigeration services contract or project;

35 [or]

1 [(12)] (XII) failed in any material respect to comply with the provisions of
2 this title;

3 (XIII) AS THE HOLDER OF A MASTER RESTRICTED, LIMITED,
4 JOURNEYMAN, OR APPRENTICE LICENSE, PERFORMED HEATING, VENTILATION,
5 AIR-CONDITIONING, OR REFRIGERATION SERVICES OUTSIDE THE SCOPE OF THAT
6 LICENSE; OR

7 (XIV) KNOWINGLY ALLOWED OR PERMITTED ANOTHER LICENSEE TO
8 PERFORM HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION
9 SERVICES OUTSIDE THE SCOPE OF THAT INDIVIDUAL'S LICENSE.

10 (2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE
11 OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE BOARD
12 MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

13 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
14 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

- 15 1. THE SERIOUSNESS OF THE VIOLATION;
- 16 2. THE HARM CAUSED BY THE VIOLATION;
- 17 3. THE GOOD FAITH OF THE LICENSEE; AND
- 18 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
19 LICENSEE.

20 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
21 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

22 (b) The Board shall consider the following facts in the granting, denial,
23 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
24 applicant or licensee is convicted of a felony or misdemeanor described in subsection
25 [(a)(5)] (A)(1)(V) of this section:

- 26 (1) the nature of the crime;
- 27 (2) the relationship of the crime to the activities authorized by the
28 license;
- 29 (3) with respect to a felony, the relevance of the conviction to the fitness
30 and qualification of the applicant or licensee to provide heating, ventilation,
31 air-conditioning, and refrigeration services;
- 32 (4) the length of time since the conviction; and
- 33 (5) the behavior and activities of the applicant or licensee before and
34 after the conviction.

1 9A-505.

2 (a) (1) In this section, "officer" includes a superintendent, manager, or agent
3 of a corporation regardless of whether the corporation provides heating, ventilation,
4 air-conditioning, or refrigeration services.

5 (2) Any person, including an officer, who violates § 9A-501, § 9A-502, §
6 9A-503, or § 9A-504 of this title is guilty of a misdemeanor, and on conviction is
7 subject to a fine not exceeding \$50 for each day or part of each day that the violation
8 continues.

9 (b) Any person who knowingly and willfully violates any provision of § 9A-402
10 of this title is guilty of a misdemeanor, and on conviction is subject to a fine not
11 exceeding \$1,000 or imprisonment not exceeding 6 months or both.

12 (C) (1) EXCEPT AS OTHERWISE PROVIDED BY THIS TITLE, THE BOARD MAY
13 IMPOSE ON A PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE A PENALTY
14 NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

15 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL
16 CONSIDER:

- 17 (I) THE SERIOUSNESS OF THE VIOLATION;
18 (II) THE HARM CAUSED BY THE VIOLATION;
19 (III) THE GOOD FAITH OF THE VIOLATOR;
20 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
21 AND
22 (V) ANY OTHER RELEVANT FACTORS.

23 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
24 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

25 12-209.

26 (a) (1) Except as otherwise provided, in this subsection, a dealer's or
27 applicant's agents, employees, management personnel, or partners include only those
28 individuals who are directly involved in pawn transactions or the acquisition or sale
29 of secondhand precious metals on behalf of the dealer or applicant.

30 (2) Subject to the hearing provisions of § 12-210 of this subtitle, the
31 Secretary may deny a license to an applicant, reprimand a licensee, or suspend or
32 revoke a license if the applicant or licensee or an agent, employee, manager, or
33 partner of the applicant or licensee:

34 (i) fraudulently or deceptively obtains or attempts to obtain a
35 license for the applicant or licensee or for another person;

- 1 (ii) fraudulently or deceptively uses a license;
2 (iii) has a similar license denied, suspended, or revoked in another
3 jurisdiction;
4 (iv) under the laws of the United States or of any state, is convicted
5 of a:

- 6 1. felony; or
7 2. misdemeanor that is directly related to the fitness and
8 qualification of the applicant or licensee to be involved in a pawn transaction or the
9 sale or acquisition of secondhand precious metals;

- 10 (v) knowingly employs or knowingly continues to employ, after
11 being notified by the Secretary, an individual who, under the laws of the United
12 States or of any state, is convicted of:

- 13 1. a felony; or
14 2. a misdemeanor that is directly related to the fitness and
15 qualification of the employee to be involved in a pawn transaction or the sale or
16 acquisition of secondhand precious metals;

- 17 (vi) knowingly employs or knowingly continues to employ in any
18 capacity, after being notified by the Secretary, an individual whose precious metals
19 dealer's license has been revoked;

- 20 (vii) willfully fails to provide or willfully misrepresents any
21 information required to be provided under this title;

- 22 (viii) violates this title; or

- 23 (ix) violates a regulation adopted under this title.

24 [(3) The Secretary shall distribute periodically to all dealers a list of
25 individuals whose licenses have been revoked in the State.]

26 (3) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE
27 OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE
28 SECRETARY MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

29 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
30 UNDER THIS SUBSECTION, THE SECRETARY SHALL CONSIDER:

- 31 1. THE SERIOUSNESS OF THE VIOLATION;
32 2. THE HARM CAUSED BY THE VIOLATION;
33 3. THE GOOD FAITH OF THE LICENSEE; AND

1 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
2 LICENSEE.

3 (4) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS
4 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

5 (5) THE SECRETARY SHALL DISTRIBUTE PERIODICALLY TO ALL
6 DEALERS A LIST OF INDIVIDUALS WHOSE LICENSES HAVE BEEN REVOKED IN THE
7 STATE.

8 (b) (1) If a licensee is charged with a violation of this title that could result
9 in suspension or revocation of the license, or if the Secretary has probable cause to
10 believe that this title has been, or will be, violated through transactions likely to occur
11 pursuant to § 12-206 of this subtitle, the Secretary may seek from a circuit court an
12 immediate restraining order to prohibit the licensee from:

13 (i) buying or selling a secondhand precious metal object;

14 (ii) disposing of a secondhand precious metal object; or

15 (iii) disposing of a record about a secondhand precious metal object.

16 (2) The restraining order is in effect until:

17 (i) the court lifts the order;

18 (ii) the charges are adjudicated or dismissed; or

19 (iii) in the case of an event held in accordance with § 12-206 of this
20 subtitle, arrangements are made by the licensee which will ensure compliance with
21 the provisions of this title.

22 (c) The Secretary shall consider the following facts in the granting, denial,
23 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
24 applicant or licensee is convicted of a felony or misdemeanor described in subsection
25 (a)(2)(iv) of this section:

26 (1) the nature of the crime;

27 (2) the relationship of the crime to the activities authorized by the
28 license;

29 (3) with respect to a felony, the relevance of the conviction to the fitness
30 and qualification of the applicant or licensee to act as a pawnbroker or a secondhand
31 precious metal object dealer;

32 (4) the length of time since the conviction; and

33 (5) the behavior and activities of the applicant or licensee before and
34 after the conviction.

1 12-502.

2 (a) (1) A person who willfully or knowingly violates this title is guilty of a
3 misdemeanor and, on conviction, is subject to a fine not exceeding \$10,000 or
4 imprisonment not exceeding 2 years or both.

5 [(b)] (2) Each associate, employee, manager, or partner who participates in or
6 consents to a violation of this title is guilty of a misdemeanor and, on conviction, is
7 subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

8 [(c)] (3) Each violation of this title is a separate offense.

9 (B) (1) THE SECRETARY MAY IMPOSE ON A PERSON WHO VIOLATES ANY
10 PROVISION OF THIS TITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

11 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE SECRETARY SHALL
12 CONSIDER:

13 (I) THE SERIOUSNESS OF THE VIOLATION;

14 (II) THE HARM CAUSED BY THE VIOLATION;

15 (III) THE GOOD FAITH OF THE VIOLATOR;

16 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
17 AND

18 (V) ANY OTHER RELEVANT FACTORS.

19 (3) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS
20 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 2001.