

Senate Bill 325

By: Senators Albers of the 56th, Carter of the 1st, Hufstetler of the 52nd and Ligon, Jr. of the 3rd

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 25 of the Official Code of Georgia Annotated, relating to fire protection and
2 safety, so as to change provisions related to regulation of fire protection sprinkler contractors
3 and fire extinguishers and suppression systems; to provide for changes to cease and desist
4 orders; to provide for written notices; to change provisions relating to additional grounds for
5 revocation or suspension of licenses; to provide for penalties; to provide for a civil action to
6 enjoin violations of such provisions, rules, regulations, or orders issued by the
7 Commissioner; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 25 of the Official Code of Georgia Annotated, relating to licensing and regulation of
12 fire protection sprinkler contractors, is amended by revising Code Section 25-11-16, relating
13 to cease and desist orders against violators, penalties for violations, order requiring
14 compliance, and revocation of certificate for failure to comply with order, as follows:

15 "25-11-16.

16 (a) Whenever the Commissioner shall have reason to believe that any individual is or has
17 been violating any provisions of this chapter, the Commissioner, his or her deputy, his or
18 her assistant, or other designated persons may issue and deliver to the individual an order
19 to cease and desist such violation. An order issued under this Code section may be
20 delivered in accordance with the provisions of subsection (d) of this Code section.

21 (b) Violation of any provision of this chapter or failure to comply with a cease and desist
22 order is cause for revocation of any or all certificates and licenses issued by the
23 Commissioner for a period of not less than six months and not to exceed five years. If a
24 new certificate or license has been issued to the person so charged, the order of revocation
25 shall operate effectively with respect to such new certificates and licenses held by such
26 person. In the case of an applicant for a license, certificate, or permit, violation of any

27 provision of this title or regulations promulgated thereunder may constitute grounds for
 28 refusal of the application. Decisions under this subsection may be appealed as provided
 29 by law.

30 (c) Any person who violates any provision of this chapter or any rule, regulation, or order
 31 issued by the Commissioner under this chapter shall be subject to a civil penalty imposed
 32 by the Commissioner of not more than \$1,000.00 for a first offense, not less than \$1,000.00
 33 and not more than \$2,000.00 for a second offense, and not less than \$2,000.00 or more than
 34 \$5,000.00 for a third or subsequent offense ~~for each day a violation persists after such~~
 35 ~~person is notified of the Commissioner's intent to impose such penalty and the right to a~~
 36 ~~hearing with respect to same.~~ Prior to subjecting any person or entity to a fine under this
 37 subsection, the Commissioner or his or her agent shall give written notice to the person or
 38 entity by hand delivery or by registered or certified mail or statutory overnight delivery,
 39 return receipt requested, of the existence of the violations. After a reasonable period of
 40 time after notice is given, an order may be issued based on this Code section. Such order
 41 must be delivered in accordance with the provisions of subsection (d) of this Code section
 42 and must notify the person or entity of the right to a hearing with respect to same.

43 (d) Any order issued by the Commissioner under this chapter shall contain or be
 44 accompanied by a notice of opportunity for hearing which may provide that a hearing will
 45 be held if and only if a person subject to the order requests a hearing within ten days of
 46 receipt of the order and notice. The order and notice shall be served by delivery by the
 47 Commissioner or his or her agent or by registered or certified mail or statutory overnight
 48 delivery, return receipt requested. Any person who fails to comply with any order under
 49 this subsection is guilty of a misdemeanor and may be punished by law.

50 (e) In addition to other powers granted to the Commissioner under this chapter, the
 51 Commissioner may bring a civil action to enjoin a violation of any provision of this chapter
 52 or of any rule, regulation, or order issued by the Commissioner under this chapter."

53 **SECTION 2.**

54 Said title is further amended by revising Code Section 25-11-17, relating to additional
 55 grounds for revocation or suspension of licenses, as follows:

56 "25-11-17.

57 In addition to the grounds set forth in Code Section 25-11-16, it is cause for revocation or
 58 suspension, refusal, or nonrenewal of certificates or licenses by the Commissioner if it is
 59 determined that the holder or applicant has:

60 (1) Rendered inoperative a water-based fire protection system covered by this chapter,
 61 except during a reasonable time during which the system is being repaired, altered, added
 62 to, maintained, ~~or inspected,~~ or except pursuant to a court order;

- 63 (2) Falsified any record required to be maintained by this chapter or rules or regulations
 64 adopted pursuant to this chapter or current fire codes enforced by the Commissioner;
- 65 (3) Improperly installed, repaired, serviced, modified, altered, inspected, or tested a
 66 water-based fire protection system;
- 67 (4) While holding a certificate or license, allowed another person to use the certificate
 68 or license or certificate number or license number other than his or her own valid
 69 certificate or license or certificate number or license number;
- 70 (5) While holding a certificate or license, used a certificate or license or certificate
 71 number or license number other than his or her own valid certificate or license or
 72 certificate number or license number;
- 73 (6) Used credentials, methods, means, or practices to impersonate a representative of the
 74 Commissioner or the state fire marshal or any local fire chief, fire marshal, or other fire
 75 authority having jurisdiction;
- 76 (7) Failed to maintain the minimum insurance coverage as set forth in this chapter; or
- 77 (8) Failed to obtain, retain, or maintain one or more of the minimum qualifications and
 78 requirements to obtain a certificate of competency or other licenses required by this
 79 chapter;
- 80 (9) Installed, serviced, modified, altered, inspected, maintained, added to, or tested a
 81 water-based fire protection system without a current, valid license or certificate, when
 82 such license or certificate is required by this chapter;
- 83 (10) Made a material misstatement or misrepresentation or committed a fraud in
 84 obtaining or attempting to obtain a license or certificate; or
- 85 (11) Failed to notify the Commissioner, in writing, with 30 days after a change of
 86 residence, principal business address, or name.
- 87 In addition to other grounds set forth in this Code section, the Commissioner shall not issue
 88 a new license or certificate if the Commissioner finds that the circumstance or
 89 circumstances for which the license or certificate was previously suspended or revoked still
 90 exist or are likely to recur."

91 **SECTION 3.**

92 Said title is further amended by revising Code Section 25-12-18, relating to cease and desist
 93 orders, period of revocation, civil penalty, and opportunity for hearing, as follows:

94 "25-12-18.

- 95 (a) Whenever the Commissioner shall have reason to believe that any individual is or has
 96 been violating any provisions of this chapter, the Commissioner, his or her deputy, his or
 97 her assistant, or other designated persons may issue and deliver to the individual an order

98 to cease and desist such violation. An order issued under this Code section may be
 99 delivered in accordance with the provisions of subsection (d) of this Code section.

100 (b) Violation of any provision of this chapter or failure to comply with a cease and desist
 101 order is cause for revocation of any or all permits and licenses issued by the Commissioner
 102 for a period of not less than six months and not to exceed five years. If a new permit or
 103 license has been issued to the person so charged, the order of revocation shall operate
 104 effectively with respect to such new permits and licenses held by such person. In the case
 105 of an applicant for a license, certificate, or permit, violation of any provision of this title
 106 may constitute grounds for refusal of the application. Decisions under this subsection may
 107 be appealed as provided by law.

108 (c) Any person who violates any provision of this chapter or any rule, regulation, or order
 109 issued by the Commissioner under this chapter shall be subject to a civil penalty imposed
 110 by the Commissioner of not more than \$1,000.00 for a first offense, not less than \$1,000.00
 111 and not more than \$2,000.00 for a second offense, and not less than \$2,000.00 or more than
 112 \$5,000.00 for a third or subsequent offense for each day a violation persists after such
 113 person is notified of the Commissioner's intent to impose such penalty and the right to a
 114 hearing with respect to same. Prior to subjecting any person or entity to a fine under this
 115 subsection, the Commissioner or his or her agent shall give written notice to the person or
 116 entity by hand delivery or by registered or certified mail or statutory overnight delivery,
 117 return receipt requested, of the existence of the violations. After a reasonable period of
 118 time after notice is given, an order may be issued based on this Code section. Such order
 119 must be delivered in accordance with the provisions of subsection (d) of this Code section
 120 and must notify the person or entity of the right to a hearing with respect to same.

121 (d) Any order issued by the Commissioner under this chapter shall contain or be
 122 accompanied by a notice of opportunity for hearing which may provide that a hearing will
 123 be held if and only if a person subject to the order requests a hearing within ten days of
 124 receipt of the order and notice. The order and notice shall be served by delivery by the
 125 Commissioner or his or her agent or by registered or certified mail or statutory overnight
 126 delivery, return receipt requested. Any person who fails to comply with any order under
 127 this subsection is guilty of a misdemeanor and may be punished as provided by law.

128 (e) In addition to other powers granted to the Commissioner under this chapter, the
 129 Commissioner may bring a civil action to enjoin a violation of any provision of this chapter
 130 or of any rule, regulation, or order issued by the Commissioner under this chapter."

131

SECTION 4.

132 All laws and parts of laws in conflict with this Act are repealed.