

HOUSE BILL 526

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By: **Prince George's County Delegation and Montgomery County Delegation**

Introduced and read first time: January 21, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Plumbing and Fuel Gas Services**
3 **– Licenses and Penalties**

4 **PG/MC 109–22**

5 FOR the purpose of prohibiting a person from providing, attempting to provide, or offering
6 to provide certain plumbing services in any area of Montgomery County or Prince
7 George's County under the regulatory jurisdiction of the Washington Suburban
8 Sanitary Commission without a license from the Commission; prohibiting a person
9 from assisting, attempting to assist, or offering to assist in providing certain fuel gas
10 services in any area of Montgomery County or Prince George's County under the
11 regulatory jurisdiction of the Commission without a license from the Commission;
12 authorizing the Commission's Plumbing and Fuel Gas Board to deny a license to an
13 applicant, reprimand a licensee, or suspend or revoke a license under certain
14 circumstances; authorizing the Board to impose a certain penalty for certain
15 violations; requiring the Board to consider certain factors in determining the amount
16 of a certain penalty; and generally relating to the Washington Suburban Sanitary
17 Commission.

18 BY repealing and reenacting, without amendments,
19 Article – Public Utilities
20 Section 29–101
21 Annotated Code of Maryland
22 (2020 Replacement Volume and 2021 Supplement)

23 BY adding to
24 Article – Public Utilities
25 Section 29–101.1
26 Annotated Code of Maryland
27 (2020 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Preamble

WHEREAS, The Washington Suburban Sanitary Commission (the “Commission”) is authorized under §§ 17–403 and 17–404 of the Public Utilities Article to adopt regulations for the construction, operation, maintenance, renovation, and repair of the Commission’s water system and sanitary sewer system and the installation of fuel gas piping, appliances, appurtenances, and connections from the point of service supplying any premises in its sanitary district; and

WHEREAS, In accordance with § 24–106 of the Public Utilities Article, the Commission issues plumbing and gasfitter licenses to regulate plumbing and fuel gas work performed in the Washington Suburban Sanitary District; and

WHEREAS, In accordance with its regulatory authority, the Commission has adopted a Plumbing and Fuel Gas Code (“Code”) establishing requirements and standards for plumbing and fuel gas work; and

WHEREAS, The Commission is authorized by the Code to deny, suspend, or revoke a plumbing or gasfitter license for violations of its regulations governing plumbing and gas fitting; and

WHEREAS, In accordance with § 29–101 of the Public Utilities Article, the Commission is further authorized to impose fines and penalties against licensees for violations of plumbing and gas fitting regulations; and

WHEREAS, Section 29–101 of the Public Utilities Article establishes a progressive fine structure for violations of the Commission’s regulations, with a minimum penalty of \$250 for the first violation and a maximum penalty of \$1,000 for the fourth or subsequent violation; and

WHEREAS, The progressive fine structure established by § 29–101 of the Public Utilities Article is not an adequate penalty to deter violations of the Commission’s regulations governing plumbing and fuel gas work; and

WHEREAS, The State Board of Plumbing is a regulatory body charged with similar authority to issue licenses for plumbing and fuel gas work performed in the State, except for in Baltimore County or in areas under the jurisdiction of the Commission; and

WHEREAS, The State Board of Plumbing is authorized to impose fines and penalties against its licensees for violations of its regulations, including suspension or revocation of a license and a penalty not exceeding \$5,000 for each violation, in accordance with § 12–312 of the Business Occupations and Professions Article; and

WHEREAS, The Commission seeks parity with the State Board of Plumbing in its authority to impose a fine up to \$5,000 for certain violations committed by its licensees; and

1 WHEREAS, An expansion of the Commission's authority to impose fines and
2 penalties for violations of its regulations governing plumbing and fuel gas work will
3 encourage stricter compliance by its licensees and promote public safety by protecting
4 against hazards to life, health, property, or to the Commission's systems which could result
5 from a licensee's failure to adhere to the Commission's regulations governing plumbing and
6 fuel gas work; now, therefore,

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

9 **Article – Public Utilities**

10 29–101.

11 (a) In this section, “enforcement official” means an employee of the Commission
12 authorized by the Commission to issue a citation for a Commission infraction under this
13 section.

14 (b) This section applies to the violations of the following:

15 (1) regulations governing sewer cleaning adopted under § 24–201 of this
16 article;

17 (2) regulations governing plumbing adopted under § 17–403, Title 24,
18 Subtitle 1, § 26–102, or § 26–204 of this article;

19 (3) regulations governing erosion and sediment control for utility
20 construction adopted under § 17–403 of this article and § 4–105 of the Environment Article;

21 (4) regulations governing gas fitting adopted under § 17–404 of this article;

22 (5) regulations governing required permits for public utility construction
23 adopted under §§ 27–101, 27–107, and 27–108 of this article;

24 (6) regulations governing the Commission Pretreatment Program adopted
25 under § 17–403 of this article and § 9–332 of the Environment Article; or

26 (7) any other regulation adopted in accordance with § 17–406 of this article.

27 (c) (1) (i) A person who violates any provision of a regulation listed in
28 subsection (b) of this section has committed a Commission infraction and on delivery of a
29 citation by the Commission under subsection (d)(1) of this section shall pay to the
30 Commission a civil fine in the amount of:

31 1. for a first violation of the regulation, \$250;

32 2. for a second violation of the regulation, \$500;

3. for a third violation of the regulation, \$750; and

4. for a fourth or subsequent violation, \$1,000.

(ii) Each day that a violation of the regulation remains uncorrected is a separate Commission infraction subject to an additional citation and fine in the amount of \$250.

(2) (i) The payment due date for the fine may not be less than 10 or more than 20 calendar days after the date of delivery of the citation.

(ii) The recipient of the citation may pay the fine before the payment due date specified in the citation.

(d) (1) After verifying a Commission infraction the enforcement official shall deliver the citation to any person charged with committing the Commission infraction in accordance with the enforcement procedures of the regulations.

(2) The citation shall be on a form adopted by the Commission and shall include:

(i) the date of delivery of the citation;

(ii) the name and address of the person charged;

(iii) the specific provision of the regulations that has been violated;

(iv) the nature of the Commission infraction;

(v) the location and time that the Commission infraction occurred;

(vi) the amount of the civil fine assessed for the Commission infraction;

(vii) the manner, location, and time in which the fine may be paid to the Commission;

(viii) a statement that each day that a violation continues is a separate Commission infraction subject to additional citation;

(ix) the name, business address, title, and telephone number of the enforcement official who issued the citation; and

(x) notice of the person's right to a trial for the Commission infraction and instructions and time limits for that election.

(e) (1) A person who receives a citation for a Commission infraction under this section may elect to stand trial by filing with the Commission a notice of the person's intent to stand trial.

(2) The notice of intent to stand trial shall be given at least 5 days before the payment due date specified in the citation.

(3) On receipt of the notice of intent to stand trial, the Commission shall forward to the District Court having venue a copy of the citation and a copy of the notice of intent to stand trial that was filed by the person who received the citation.

(4) On receipt of the citation and the notice of intent to stand trial, the District Court shall schedule the case for trial and notify the defendant and Commission of the trial date.

(5) The District Court shall remit to the Commission all fines, penalties, or forfeitures the Court collects for Commission infractions.

(f) (1) If a person who receives a citation for a Commission infraction fails to pay the fine by the payment due date specified in the citation and fails to file a notice of the person's intent to stand trial for the offense:

(i) the person is liable for the assessed fine; and

(ii) the Commission shall send a notice of the Commission infraction to the person's last known address.

(2) (i) If the fine is not paid within 35 days after the date of the notice, the Commission may request adjudication of the case through the District Court, which may include the filing of a demand for judgment on affidavit.

(ii) On receipt of the request for adjudication, the District Court shall schedule the case for trial and summon the defendant to appear.

(3) If the defendant fails to respond to the summons and the Commission has made a proper demand for judgment on affidavit, the District Court shall enter judgment against the defendant in favor of the Commission in the amount then due.

(g) (1) For the purpose of this section, a Commission infraction is a civil offense.

(2) The adjudication of a Commission infraction:

(i) is not a criminal conviction; and

(ii) does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(h) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under §§ 6–108 through 6–110, 6–112, and 6–114 of the Local Government Article.

29–101.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “PROVIDE FUEL GAS SERVICES” MEANS TO INSTALL, MAINTAIN, ALTER, REPAIR, REMOVE, OR REPLACE PROPANE OR NATURAL GAS PIPING, GAS UTILIZATION EQUIPMENT, GAS-FIRED EQUIPMENT, APPLIANCES, OR APPURTENANCES IN CONNECTION WITH A PROPANE OR NATURAL GAS SUPPLY SYSTEM DOWNSTREAM OF THE POINT OF DELIVERY OF THE GAS.

(II) “PROVIDE FUEL GAS SERVICES” DOES NOT INCLUDE THE INSTALLATION, MAINTENANCE, ALTERATION, REPAIR, REMOVAL, OR REPLACEMENT OF ANY OF THE FOLLOWING WITH RESPECT TO A PLUMBING WATER SUPPLY AND DRAINAGE SYSTEM:

1. FIXTURES THAT REQUIRE ADDITIONAL ENERGY SOURCES, INCLUDING CLOTHES WASHERS, DISHWASHERS, FOOD GRINDERS, HUMIDIFIERS, ICE PUMPS, STERILIZERS, WATER COOLERS, AND WATER HEATERS; OR

2. OPERATIONAL DEVICES, INCLUDING AERATORS, BACKFLOW PREVENTERS, EXPANSION TANKS, FILTERS, FLOW CONTROLS, HEAT EXCHANGERS, INTERCEPTORS, METERS, SEPARATORS, AND RELIEF VALVES.

(3) (I) “PROVIDE PLUMBING SERVICES” MEANS TO INSTALL, MAINTAIN, EXTEND, ALTER, OR REMOVE PIPING, A PLUMBING FIXTURE, A PLUMBING APPLIANCE, A PLUMBING APPURTENANCE, OR OTHER PLUMBING APPARATUS:

1. WITHIN OR ADJACENT TO A BUILDING, STRUCTURE, OR PROPERTY; AND

2. IN CONNECTION WITH:

A. A PUBLIC OR PRIVATE DISPOSAL SYSTEM, SANITARY DRAINAGE FACILITY, OR STORM DRAINAGE FACILITY;

B. A VENTING SYSTEM; OR

C. A PUBLIC OR PRIVATE WATER SUPPLY SYSTEM.

(II) EXCEPT FOR THE FIRST CONNECTION TO A POTABLE WATER SUPPLY THAT IS DOWNSTREAM OF A BACKFLOW PREVENTER AND THE FINAL CONNECTION THAT DISCHARGES INDIRECTLY INTO A PUBLIC OR PRIVATE DISPOSAL SYSTEM, SANITARY DRAINAGE FACILITY, OR STORM DRAINAGE FACILITY, “PROVIDE PLUMBING SERVICES” DOES NOT INCLUDE USING PIPING, EQUIPMENT, OR MATERIAL ONLY FOR:

1. ENVIRONMENTAL CONTROL;

2. THE INCORPORATION OF A LIQUID OR A GAS INTO A PRODUCT OR A PROCESS, INCLUDING PRODUCT DEVELOPMENT, IN THE MANUFACTURING OR STORAGE OF A PRODUCT;

3. THE INSTALLATION, ALTERATION, REPAIR, OR REMOVAL OF AN AUTOMATIC SPRINKLER SYSTEM, RELATED APPARATUS, OR STANDPIPE THAT IS USED ONLY FOR FIRE PROTECTION; OR

4. AN OVERHEAD OR UNDERGROUND FIRE LINE BEGINNING FROM WHERE WATER IS USED ONLY FOR FIRE PROTECTION.

(B) A PERSON MAY NOT PROVIDE, ATTEMPT TO PROVIDE, OR OFFER TO PROVIDE PLUMBING SERVICES IN ANY AREA OF MONTGOMERY COUNTY OR PRINCE GEORGE’S COUNTY UNDER THE REGULATORY JURISDICTION OF THE COMMISSION WITHOUT A LICENSE FROM THE COMMISSION.

(C) A PERSON MAY NOT ASSIST, ATTEMPT TO ASSIST, OR OFFER TO ASSIST IN PROVIDING FUEL GAS SERVICES IN ANY AREA OF MONTGOMERY COUNTY OR PRINCE GEORGE’S COUNTY UNDER THE REGULATORY JURISDICTION OF THE COMMISSION WITHOUT A LICENSE FROM THE COMMISSION.

(D) (1) SUBJECT TO THE PROVISIONS OF § 10-226(C) OF THE STATE GOVERNMENT ARTICLE AND PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION’S PLUMBING AND FUEL GAS BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE LICENSEE:

(I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE OR PERMIT FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

(II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(III) IS GUILTY OF GROSS NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT WHILE PROVIDING PLUMBING OR FUEL GAS SERVICES OR ASSISTING IN PROVIDING PLUMBING OR FUEL GAS SERVICES;

(IV) IS GUILTY OF VIOLATING THE COMMISSION'S PLUMBING AND FUEL GAS REGULATIONS ADOPTED UNDER TITLE 17, SUBTITLE 4 OF THIS ARTICLE WHILE PROVIDING PLUMBING OR FUEL GAS SERVICES OR ASSISTING IN PROVIDING PLUMBING OR FUEL GAS SERVICES; OR

(V) IS GUILTY OF AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE, AS DEFINED IN § 13-301 OF THE COMMERCIAL LAW ARTICLE.

(2) (I) IN LIEU OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND IN ADDITION TO THE PROVISIONS OF § 29-101 OF THIS TITLE, THE COMMISSION'S PLUMBING AND FUEL GAS BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD SHALL CONSIDER:

1. THE SERIOUSNESS OF THE VIOLATION;

2. THE HARM CAUSED BY THE VIOLATION;

3. THE GOOD FAITH OF THE LICENSEE; AND

4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.