

Senate Bill 358

By: Senators Mullis of the 53rd, Bowen of the 13th, Blich of the 7th, Williams of the 6th, James of the 35th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 25 of the Official Code of Georgia Annotated, relating to
2 regulation of fire extinguishers and suppression systems, so as to change the powers and
3 authority of the Commissioner with regard to licensees or permittees who violate the
4 provisions of such chapter, rules and regulations of the Commissioner, and order and notices
5 of the Commissioner; to change the grounds for suspension, revocation, and refusal to issue,
6 renew, or continue licenses and permits; to authorize the Commissioner to impose fines for
7 violations of such chapter; to authorize the Commissioner to place licensees or permittees
8 on probation under such reasonable terms and conditions as the Commissioner may
9 determine and to revoke such probation for a violation of such terms and conditions; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 12 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
14 fire extinguishers and suppression systems, is amended by striking Code Section 25-12-17,
15 relating to violation of chapter by licensee or permittee, in its entirety and inserting in lieu
16 thereof a new Code Section 25-12-17 to read as follows:

17 "25-12-17.

18 (a) The violation of any provision of this chapter or any rule or regulation adopted and
19 promulgated pursuant to this chapter or the failure or refusal to comply with any notice or
20 order to correct a violation or any cease and desist order by any person who possesses a
21 license or permit issued pursuant to this chapter or who is required to have a license or
22 permit issued pursuant to this chapter is cause for denial, nonrenewal, revocation or
23 suspension of such license or permit by the Commissioner after a determination that such
24 person is guilty of such violations. An order of suspension shall state the period of time
25 of such suspension, which period may not be in excess of ~~one year~~ two years from the date
26 of such order. An order of revocation shall state the period of time of such revocation,

1 which period may not be in excess of ~~two~~ five years from the date of such order. Such
 2 order shall effect suspension or revocation of ~~the license or permit~~ all licenses and permits
 3 then held by the person, and during such period of time no license or permit shall be issued
 4 to such person. During the suspension or revocation of any license or permit, the licensee
 5 or permittee whose license or permit has been suspended or revoked shall not engage in or
 6 attempt or profess to engage in any transaction or business for which a license or permit
 7 is required under this chapter or directly or indirectly own, control, or be employed in any
 8 manner by any firm, business, or corporation for which a license or permit under this
 9 chapter is required. If, during the period between the beginning of proceedings and the
 10 entry of an order of suspension or revocation by the Commissioner, a new license or permit
 11 has been issued to the person so charged, the order of suspension or revocation shall
 12 operate ~~effectively with respect to~~ to suspend or revoke, as the case may be, such new
 13 license or permit held by such person.

14 (b) The department shall not, so long as the revocation or suspension remains in effect,
 15 issue any new license or permit for the establishment of any new firm, business, or
 16 corporation of any person or applicant that has or will have the same or similar
 17 management, ownership, control, employees, permittees, or licensees, or will use the same
 18 or a similar name as the revoked or suspended firm, business, corporation, person, or
 19 applicant.

20 (c) The Commissioner may deny, nonrenew, suspend, or revoke the license or permit of:

21 (1) Any person, firm, business, or corporation whose license has been suspended or
 22 revoked under this chapter;

23 (2) Any firm, business, or corporation if any officer, director, stockholder, owner, or
 24 person who has a direct or indirect interest in the firm, business, or corporation has had
 25 his or her license or permit suspended under this chapter; and

26 (3) Any person who is or has been an officer, director, stockholder, or owner of a firm,
 27 business, or corporation or who has or had a direct or indirect interest in a firm, business,
 28 or corporation whose license or permit has been suspended or revoked under this chapter.

29 (d) In addition to the grounds set forth in this Code section, it is cause for denial,
 30 nonrenewal, revocation, or suspension of a license or permit by the Commissioner if he or
 31 she determines that the licensee or permittee has:

32 (1) Rendered inoperative a portable fire extinguisher or preengineered or engineered fire
 33 suppression system covered by this chapter, except during such time as the extinguisher
 34 or preengineered or engineered system is being inspected, recharged, hydrottested,
 35 repaired, altered, added to, maintained, serviced, or tested or except pursuant to court
 36 order;

1 (2) Falsified any record required to be maintained by this chapter or rules or regulations
 2 adopted pursuant to this chapter or current fire codes enforced by the Commissioner;

3 (3) Improperly installed, recharged, hydrotested, repaired, serviced, modified, altered,
 4 inspected, or tested a portable fire extinguisher or preengineered or engineered fire
 5 suppression system;

6 (4) While holding a permit or license, allowed another person to use the permit or license
 7 or permit number or license number or used a license or permit or license number or
 8 permit number other than his or her own valid license or permit or license number or
 9 permit number;

10 (5) Failed to provide proof of or failed to maintain the minimum comprehensive liability
 11 insurance coverage as set forth in paragraph (3) of Code Section 25-12-11;

12 (6) Failed to obtain, retain, or maintain one or more of the qualifications for a license or
 13 permit required by this chapter;

14 (7) Used credentials, methods, means, or practices to impersonate a representative of the
 15 Commissioner or the state fire marshal or any local fire chief, fire marshal, or other fire
 16 authority having jurisdiction;

17 (8) Installed, recharged, hydrotested, repaired, serviced, modified, altered, inspected,
 18 maintained, added to, or tested a portable fire extinguisher or preengineered or engineered
 19 fire suppression system without a current, valid license or permit when such license or
 20 permit is required by this chapter;

21 (9) Made a material misstatement, misrepresentation, or committed a fraud in obtaining
 22 or attempting to obtain a license or permit; or

23 (10) Failed to notify the Commissioner, in writing, within 30 days after a change of
 24 residence, principal business address, or name.

25 (e) In addition, the Commissioner shall not issue a new license or permit if the
 26 Commissioner finds that the circumstance or circumstances for which the license or permit
 27 was previously suspended or revoked still exist or are likely to reoccur."

28 SECTION 2.

29 Said chapter is further amended by striking Code Section 25-12-18, relating to additional
 30 grounds for revocation of license or permit, in its entirety and inserting in lieu thereof a new
 31 Code Section 25-12-18 to read as follows:

32 "25-12-18.

33 ~~In addition to the grounds set forth in Code Section 25-12-17, it is cause for revocation or~~
 34 ~~suspension of a license or permit by the Commissioner if he determines that the licensee~~
 35 ~~or permittee has:~~

1 ~~(1) Rendered inoperative a fire suppression system or portable fire extinguisher covered~~
2 ~~by this chapter, except during a reasonable time the system or extinguisher is being~~
3 ~~inspected, recharged, repaired, serviced, or tested;~~

4 ~~(2) Falsified any record required to be maintained by this chapter or rules or regulations~~
5 ~~adopted pursuant to this chapter;~~

6 ~~(3) Improperly installed, recharged, repaired, serviced, or tested a fire suppression system~~
7 ~~or portable fire extinguisher;~~

8 ~~(4) While holding a permit or license, allowed another person to use the permit or license~~
9 ~~or permit number or license number or used a license or permit or license number or~~
10 ~~permit number other than his own valid license or permit or license number or permit~~
11 ~~number;~~

12 ~~(5) Used credentials, methods, means, or practices to impersonate a representative of the~~
13 ~~Commissioner or the state fire marshal or any local fire chief, fire marshal, or other fire~~
14 ~~authority having jurisdiction; or~~

15 ~~(6) Failed to maintain the minimum comprehensive liability insurance coverage as set~~
16 ~~forth in paragraph (3) of Code Section 25-12-11~~

17 (a) Whenever the Commissioner shall have reason to believe that any individual is or has
18 been violating any provisions of this chapter, the Commissioner, his or her deputy, his or
19 her assistant, or other designated persons may issue and deliver to the individual an order
20 to cease and desist such violation.

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. Decisions under this subsection may be appealed as provided by law.

27 (c) Any person who violates this chapter or any rule, regulation, or order issued by the
28 Commissioner under this chapter shall be subject to a civil penalty imposed by the
29 Commissioner of not more than \$1,000.00 for a first offense, not less than \$1,000.00 and
30 not more than \$2,000.00 for a second offense, and not less than \$2,000.00 or more than
31 \$5,000.00 for a third or subsequent offense for each day a violation persists after such
32 person is notified of the Commissioner's intent to impose such penalty and the right to a
33 hearing with respect to same.

34 (d) Any order shall contain or be accompanied by a notice of opportunity for hearing
35 which may provide that a hearing will be held if and only if a person subject to the order
36 requests a hearing within ten days of receipt of the order and notice. The order and notice
37 shall be served by delivery by the Commissioner or his or her agent or by registered or

1 certified mail or statutory overnight delivery, return receipt requested. Any person who
2 fails to comply with any order under this subsection is guilty of a misdemeanor and may
3 be punished by law."

4 **SECTION 3.**

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