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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Thompson of Harris

1 Amend H.B. 636 (house committee report) as follows:

2 (1) In SECTION 18 of the bill (page 10, line 26, through page
3 11, line 5), add the following appropriately numbered subdivisions
4 and renumber the subdivisions of the SECTION accordingly:

5 () Section 1301.258(c), as added by Chapter 819 (S.B.
6 282), Acts of the 78th Legislature, Regular Session, 2003;

7 () Section 1301.304(b);

8 () Section 1301.4522;

9 () Section 1301.502(b);

10 (2) Add the following appropriately numbered SECTIONS to
11 the bill and renumber the SECTIONS of the bill accordingly:

12 SECTION _____. Section 1301.203(b), Occupations Code, is
13 amended to read as follows:

14 (b) A field representative may:

15 (1) conduct on-site license checks to determine
16 compliance with this chapter;

17 (2) investigate consumer complaints filed under
18 Section 1301.303;

19 (3) assist municipal plumbing inspectors in enforcing
20 this chapter; and

21 (4) ~~[issue citations as provided by Section 1301.502,~~
22 ~~and~~

23 ~~(5)]~~ in the performance of the field representative's
24 other duties under this chapter, check the license, registration,
25 or endorsement of a person regulated by the Texas Department of
26 Licensing and Regulation in accordance with the memorandum of
27 understanding adopted under Section 1301.259 and report any
28 noncompliance to that agency.

29 SECTION _____. Section 1301.258(b), Occupations Code, as

1 added by Chapter 819 (S.B. 282), Acts of the 78th Legislature,
2 Regular Session, 2003, is amended to read as follows:

3 (b) The presiding officer of the board shall appoint the
4 members of the committees. [~~Except as provided by Subsection (c),~~
5 ~~each committee member must be a member of the board.~~]

6 SECTION _____. Section 1301.304(a), Occupations Code, is
7 amended to read as follows:

8 (a) The board [~~enforcement committee~~] or an employee
9 designated by the board [~~enforcement committee~~] may investigate an
10 alleged violation of this chapter or a board rule [~~that is reported~~
11 ~~to the board~~].

12 SECTION _____. Section 1301.502(a), Occupations Code, is
13 amended to read as follows:

14 (a) A [~~field representative,~~] water district plumbing
15 inspector[~~r~~] or, within the jurisdiction of the municipality,
16 municipal plumbing inspector may issue a citation to a person who
17 engages in conduct described by Section 1301.508.

18 SECTION _____. The heading to Section 1301.703, Occupations
19 Code, is amended to read as follows:

20 Sec. 1301.703. [~~REPORT AND~~] NOTICE OF VIOLATION AND
21 PENALTY.

22 SECTION _____. Sections 1301.703(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) If the board [~~enforcement committee~~] determines that a
25 violation occurred, the board [~~enforcement committee may issue to~~
26 ~~the board a report stating:~~

27 [~~(1) the facts on which the determination is based,~~
28 ~~and~~

29 [~~(2) the committee's recommendation on the imposition~~
30 ~~of the penalty, including a recommendation on the amount of the~~
31 ~~penalty.~~

1 ~~[(b) Not later than the 14th day after the date the report is~~
2 ~~issued, the enforcement committee]~~ shall give written notice of the
3 violation ~~[report]~~ to the person alleged to have committed the
4 violation.

5 SECTION _____. Sections 1301.704(a) and (b), Occupations
6 Code, are amended to read as follows:

7 (a) Not later than the 20th day after the date the person
8 receives the notice, the person in writing may:

9 (1) accept the determination and recommended penalty
10 of the board ~~[enforcement committee]~~; or

11 (2) make a request for a hearing on the occurrence of
12 the violation, the amount of the penalty, or both.

13 (b) If the person accepts the determination and recommended
14 penalty of the board ~~[enforcement committee]~~, the board by order
15 shall approve the determination and impose the recommended penalty.

16 SECTION _____. Section 1301.705(a), Occupations Code, is
17 amended to read as follows:

18 (a) If the person requests a hearing, the board ~~[enforcement~~
19 ~~committee]~~ shall set a hearing and give written notice of the
20 hearing to the person. An administrative law judge of the State
21 Office of Administrative Hearings shall hold the hearing.

22 SECTION _____. Sections 1301.708(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) Within the 30-day period prescribed by Section
25 1301.707, a person who files a petition for judicial review may:

26 (1) stay enforcement of the penalty by:
27 (A) paying the penalty to the court for placement
28 in an escrow account; or
29 (B) giving the court a supersedeas bond approved
30 by the court that:

31 (i) is for the amount of the penalty; and

1 (ii) is effective until all judicial review
2 of the board's order is final; or

3 (2) request the court to stay enforcement of the
4 penalty by:

5 (A) filing with the court a sworn affidavit of
6 the person stating that the person is financially unable to pay the
7 penalty and is financially unable to give the supersedeas bond; and

8 (B) sending a copy of the affidavit to the board
9 [~~enforcement committee~~] by certified mail.

10 (b) If the board [~~enforcement committee~~] receives a copy of
11 an affidavit under Subsection (a)(2), the executive director may
12 file with the court, not later than the fifth day after the date the
13 copy is received, a contest to the affidavit.

14 SECTION _____. Section 372.0035(h), Health and Safety Code,
15 is amended to read as follows:

16 (h) Within [~~A field representative of the Texas State Board~~
17 ~~of Plumbing Examiners or, within~~] the jurisdiction of a
18 municipality, a municipal plumbing inspector may issue a citation
19 to a person who violates this section.