

As Passed by the Senate

127th General Assembly

Regular Session

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Am. Sub. H. B. No. 444

Representative Stewart, J.

**Cosponsors: Representatives Szollosi, Luckie, Bolon, Book, Boyd, Brady,
Brown, Budish, Celeste, Chandler, DeBose, Domenick, Driehaus, Dyer,
Evans, Fende, Foley, Garrison, Gerberry, Goyal, Harwood, Heard, Koziura,
Letson, Lundy, McGregor, J., Newcomb, Okey, Patton, Sayre, Slesnick,
Stewart, D., Ujvagi, Williams, B., Williams, S., Yuko
Senators Miller, D., Goodman, Harris, Patton, Seitz, Wagoner, Fedor,
Bocchieri**

—

A B I L L

To amend sections 3781.111, 4517.21, 4740.01, 1
4740.02, 4740.04, and 4740.10 and to enact section 2
4740.16 of the Revised Code to make changes to the 3
construction industry licensing laws, to 4
discipline unlicensed contractors, eliminate 5
unlicensed contractor activity, to provide that an 6
insurer or subrogee may sell through a licensed 7
motor vehicle auction owner a motor vehicle that 8
comes into its possession through the operation of 9
an insurance contract, to create a rebuttable 10
presumption for purposes of enforcement of the 11
Ohio Civil Rights Commission that items submitted 12
for plan approval under the Board Building 13
Standards rules are in compliance with the Board's 14
rules relating to accessibility, and to require 15
the Board to provide statewide training on 16
accessibility rules. 17

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3781.111, 4517.21, 4740.01, 4740.02, 18
4740.04, and 4740.10 be amended and section 4740.16 of the Revised 19
Code be enacted to read as follows: 20

Sec. 3781.111. (A) In addition to the powers conferred by any 21
other section of the Revised Code, the board of building standards 22
shall adopt standards and rules to facilitate the reasonable 23
access and use by all persons with a disability of all buildings 24
and the facilities of buildings for which plans are submitted for 25
approval under section 3791.04 of the Revised Code. No standard or 26
rule shall be applied to any building the plans or drawings, 27
specifications, and date of which have been approved prior to the 28
time that the standard or rule takes effect. 29

(B)(1) Except as otherwise provided in this section, the 30
standards and rules adopted by the board pursuant to this section 31
shall be in accordance with the "Americans with Disabilities Act 32
of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, as amended, and the 33
"Fair Housing Amendments Act of 1988," 102 Stat. 1619, 42 U.S.C.A. 34
3601, as amended. 35

(2) For purposes of enforcement by the Ohio civil rights 36
commission only, approval of a plan as required under section 37
3791.04 of the Revised Code creates a rebuttable presumption that 38
the plans, drawings, specifications, or data submitted are in 39
compliance with the rules adopted by the board pursuant to this 40
section as they relate to accessibility. 41

(C) All signs posted to designate special parking locations 42
for persons with a disability and persons with disabilities that 43
limit or impair the ability to walk in accordance with division 44
(E) of section 4511.69 of the Revised Code and the standards and 45

rules adopted pursuant to this section shall be mounted on a fixed 46
or movable post or otherwise affixed in a vertical position at a 47
height so that the sign is clearly visible to the driver of a 48
vehicle when parked in such a location. If a new sign or a 49
replacement sign designating a special parking location is posted 50
on or after ~~the effective date of this amendment~~ October 14, 1999, 51
there also shall be affixed upon the surface of that sign or 52
affixed next to the designating sign a notice that states the fine 53
applicable for the offense of parking a motor vehicle in the 54
special designated parking location if the motor vehicle is not 55
legally entitled to be parked in that location. 56

(D) As used in this section, "disability" has the same 57
meaning as in section 4112.01 of the Revised Code. As used in 58
division (C) of this section, "persons with disabilities that 59
limit or impair the ability to walk" has the same meaning as in 60
division (A)(1) of section 4503.44 of the Revised Code. 61

(E) No owner of a building or facility where special parking 62
locations for persons with a disability must be designated in 63
accordance with the standards and rules adopted pursuant to this 64
section shall fail to properly mark the special parking locations 65
as required by those standards and rules or fail to maintain the 66
markings of the special parking locations, including the erection 67
and maintenance of the fixed or movable signs. 68

(F) The board annually shall provide statewide training on 69
the rules adopted by the board pursuant to this section as they 70
relate to accessibility for nonresidential building department 71
personnel certified by the board who approve, review plans, and 72
inspect nonresidential construction. 73

Sec. 4517.21. (A) No motor vehicle auction owner licensed 75
under Chapter 4517. of the Revised Code shall: 76

(1) Engage in the sale of motor vehicles at retail from the same licensed location;	77 78
(2) Knowingly permit the auctioning of a motor vehicle if the motor vehicle auction owner has reasonable cause to believe it is not being offered for sale by the legal owner of the motor vehicle;	79 80 81 82
(3) Knowingly permit the sale of a motor vehicle to any person except the following:	83 84
(a) A motor vehicle dealer licensed in this state or any other jurisdiction, or any other person licensed pursuant to Chapter 4517. of the Revised Code or a substantially similar statute of any other jurisdiction;	85 86 87 88
(b) A person who purchases a motor vehicle from a licensed motor vehicle dealer at an auction of motor vehicles conducted at the licensed motor vehicle dealer's place of business in accordance with division (B) of this section;	89 90 91 92
(c) A person who purchases a classic motor vehicle, as defined in section 4517.021 of the Revised Code, at an auction conducted at the established place of business of a licensed motor vehicle auction owner where only classic motor vehicles are being auctioned.	93 94 95 96 97
(4) Knowingly permit the sale of a motor vehicle by any person who is not licensed pursuant to Chapter 4517. of the Revised Code, <u>except by insurers and subrogees selling only those motor vehicles that have come into their possession through the operation of the terms of an insurance contract;</u>	98 99 100 101 102
(5) Knowingly permit any person to violate section 4517.19 of the Revised Code;	103 104
(6) Deny reasonable inspection of the motor vehicle auction owner's business records, relating to the sale of motor vehicles,	105 106

to the registrar of motor vehicles or the attorney general, when 107
requested in writing to do so. The motor vehicle auction owner 108
shall maintain for a period of six years from the date of the sale 109
of a motor vehicle at least the following information: 110

(a) The year, make, model and vehicle identification number 111
of the motor vehicle; 112

(b) The name and address of the selling dealer; 113

(c) The name and address of the buying dealer; 114

(d) The date of the sale; 115

(e) The purchase price; 116

(f) The odometer reading of the motor vehicle at the time of 117
sale and an odometer disclosure statement from the seller that 118
complies with subchapter IV of the "Motor Vehicle Information and 119
Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 120

A motor vehicle auction owner may supplement the required 121
information with any additional information the motor vehicle 122
auction owner considers appropriate. 123

(7) Knowingly permit a dealer whose license has been 124
suspended or revoked, or a person whose application for a license 125
to operate as a dealer has been denied, to participate as a buyer 126
or seller at the motor vehicle auction owner's auction after 127
notification by the registrar of the suspension or revocation of a 128
license, or denial of an application for a license. The registrar 129
shall notify each auction owner by certified mail, return receipt 130
requested, within five business days of the suspension or 131
revocation of a license, or the denial of an application for 132
license. Any motor vehicle auction owner who has knowledge of the 133
presence at the motor vehicle auction owner's auction of a dealer 134
whose license has been suspended or revoked, or of a person whose 135
application for a license to operate as a dealer has been denied, 136

shall immediately cause the removal of the person from the 137
auction. 138

(8) Knowingly accept a motor vehicle for sale or possible 139
sale by a dealer whose license has been suspended or revoked, 140
during the period of suspension or revocation, or by a person 141
whose application for a license to operate as a dealer has been 142
denied, after notification by the registrar, in accordance with 143
division (G) of this section, of the suspension or revocation of 144
the license, or denial of an application for a license. 145

(9) Knowingly permit the auctioning of a motor vehicle whose 146
ownership is not evidenced at the time of auctioning by a current 147
certificate of title or a manufacturer's certificate of origin, 148
and all title assignments that evidence the seller's ownership of 149
the motor vehicle, without first giving clear and unequivocal 150
notice of the lack of such evidence. 151

(B) Notwithstanding any provision of Chapter 4517. of the 152
Revised Code to the contrary, a licensed motor vehicle auction 153
owner, in addition to engaging in the business of auctioning motor 154
vehicles at the auction owner's established place of business, may 155
engage in the business of auctioning a licensed motor vehicle 156
dealer's motor vehicles at that licensed motor vehicle dealer's 157
established place of business, provided such dealer's place of 158
business is not owned, operated, or in any way managed by a motor 159
vehicle auction owner or subsidiary. The motor vehicle auction 160
owner is not required to obtain an additional license for each 161
dealer's premises at which the motor vehicle auction owner is 162
engaging in the business of auctioning motor vehicles, regardless 163
of whether the dealer's premises are located in another county, 164
but the motor vehicle auction owner is required to have a 165
certified copy of the auction owner's license available for 166
inspection when the auction owner is engaging in the business of 167
auctioning motor vehicles at an established place of business of a 168

licensed motor vehicle dealer. 169

(C) Whoever violates this section is guilty of a misdemeanor 170
of the fourth degree. 171

Sec. 4740.01. As used in this chapter: 172

(A) "License" means a license the Ohio construction industry 173
licensing board issues to an individual as a heating, ventilating, 174
and air conditioning contractor, refrigeration contractor, 175
electrical contractor, plumbing contractor, or hydronics 176
contractor. 177

(B) "Contractor" means any individual or business entity that 178
satisfies both of the following: 179

(1) ~~For compensation, directs~~ Directs, supervises, or has 180
responsibility for the means, method, and manner of construction, 181
improvement, renovation, repair, or maintenance on a construction 182
project with respect to one or more trades and who offers, 183
identifies, advertises, or otherwise holds out or represents that 184
the individual or business entity is permitted or qualified to 185
perform, direct, supervise, or have responsibility for the means, 186
method, and manner of construction, improvement, renovation, 187
repair, or maintenance with respect to one or more trades on a 188
construction project; 189

(2) Performs or ~~employs~~ otherwise supervises or directs 190
tradespersons who perform construction, improvement, renovation, 191
repair, or maintenance on a construction project with respect to 192
the contractor's trades. 193

(C) "Licensed trade" means a trade performed by a heating, 194
ventilating, and air conditioning contractor, a refrigeration 195
contractor, an electrical contractor, a plumbing contractor, or a 196
hydronics contractor. 197

(D) "Tradesperson" means ~~an~~ any individual who is supervised 198

or directed by a contractor or who is otherwise employed by a 199
contractor and who engages in construction, improvement, 200
renovation, repair, or maintenance of buildings or structures 201
without assuming responsibility for the means, method, or manner 202
of that construction, improvement, renovation, repair, or 203
maintenance. 204

(E) "Construction project" means a construction project 205
involving a building or structure subject to Chapter 3781. of the 206
Revised Code and the rules adopted under that chapter, but not an 207
industrialized unit or a residential building as defined in 208
section 3781.06 of the Revised Code. 209

Sec. 4740.02. (A) There is hereby created within the 210
department of commerce, the Ohio construction industry licensing 211
board, consisting of seventeen residents of this state. The board 212
shall have an administrative section, a plumbing and hydronics 213
section, an electrical section, and a heating, ventilating, air 214
conditioning, and refrigeration section. The director of commerce 215
shall appoint all members of the board. The director or the 216
director's designee shall serve as a member of the administrative 217
section and the director shall appoint to the section to represent 218
the public, one member who is not a member of any group certified 219
by any section of the board. Each section, other than the 220
administrative section, shall annually elect a member of its 221
section to serve a one-year term on the administrative section. 222

(B) The plumbing and hydronics section consists of five 223
members, one of whom is a plumbing inspector employed by the 224
department of commerce, a municipal corporation, or a health 225
district, two of whom are plumbing contractors who have no 226
affiliation with any union representing plumbers, and two of whom 227
are plumbing contractors who are signatories to agreements with 228
unions representing plumbers. 229

The plumbing and hydronics section has primary responsibility 230
for the licensure of plumbing contractors and hydronics 231
contractors. 232

(C) The electrical section consists of five members, one of 233
whom is an electrical inspector employed by the department of 234
commerce, a municipal corporation, or a county, two of whom are 235
electrical contractors who have no affiliation with any union 236
representing electricians, and two of whom are electrical 237
contractors who are signatories to agreements with unions 238
representing electricians. 239

The electrical section has primary responsibility for the 240
licensure of electrical contractors. 241

(D) The heating, ventilating, air conditioning, and 242
refrigeration section consists of five members, one of whom is a 243
heating, ventilating, air conditioning, and refrigeration 244
inspector employed by either the department of commerce or a 245
municipal corporation; two of whom are heating, ventilating, and 246
air conditioning contractors or refrigeration contractors who have 247
no affiliation with any union representing heating, ventilating, 248
and air conditioning tradespersons or refrigeration tradespersons; 249
and two of whom are heating, ventilating, and air conditioning 250
contractors or refrigeration contractors who are signatories to 251
agreements with unions representing heating, ventilating, and air 252
conditioning tradespersons or refrigeration tradespersons. 253

The heating, ventilating, air conditioning, and refrigeration 254
section has primary responsibility for the licensure of heating, 255
ventilating, and air conditioning contractors and refrigeration 256
contractors. 257

(E) Within ninety days after July 31, 1992, initial 258
appointments shall be made to the board. Of the initial 259
appointments to the board, two appointments in each section, other 260

than the administrative section, are for terms ending one year 261
after July 31, 1992, and two are for terms ending two years after 262
July 31, 1992. All other appointments to the board are for terms 263
ending three years after July 31, 1992. Thereafter, terms of 264
office are for three years, each term ending on the same day of 265
the same month of the year as did the term that it succeeds. Each 266
member shall hold office from the date of appointment until the 267
end of the term for which the member was appointed. Members may be 268
reappointed. Vacancies shall be filled in the manner provided for 269
original appointments. Any member appointed to fill a vacancy 270
occurring prior to the expiration of the term for which the 271
member's predecessor was appointed shall hold office as a member 272
for the remainder of that term. A member shall continue in office 273
subsequent to the expiration of a term until a successor takes 274
office or until a period of sixty days has elapsed, whichever 275
occurs first. 276

(F) Before entering upon the discharge of official duties, 277
each member shall take, and file with the secretary of state, the 278
oath of office required by Section 7 of Article XV, Ohio 279
Constitution. 280

(G) Each member, except for the director or the director's 281
designee, shall receive a per diem amount fixed pursuant to 282
section 124.15 of the Revised Code when actually attending to 283
matters of the board and for the time spent in necessary travel, 284
and all actual and necessary expenses incurred in the discharge of 285
official duties. 286

(H) The director of commerce may remove any member of the 287
board the director appoints for malfeasance, misfeasance, or 288
nonfeasance. 289

(I) Membership on the board and holding any office of the 290
board does not constitute holding a public office or employment 291
within the meaning of any section of the Revised Code, or an 292

interest, either direct or indirect, in a contract or expenditure 293
of money by the state or any municipal corporation, township, 294
special district, school district, county, or other political 295
subdivision. No member or officer of the board is disqualified 296
from holding any public office or employment nor shall the officer 297
or member forfeit any public office or employment by reason of 298
holding a position as an officer or member of the board. 299

(J) The board, and each section of the board, shall meet only 300
after adequate advance notice of the meeting has been given to 301
each member of the board or section, as appropriate. 302

Sec. 4740.04. The administrative section of the Ohio 303
construction industry licensing board is responsible for the 304
administration of this chapter and shall do all of the following: 305

(A) Schedule the contractor examinations each of the other 306
sections of the board directs. Each type of examination shall be 307
held at least four times per year. 308

(B) Select and contract with one or more persons to do all of 309
the following relative to the examinations: 310

(1) Prepare, administer, score, and maintain the 311
confidentiality of the examinations; 312

(2) Be responsible for all the expenses required to fulfill 313
division (B)(1) of this section; 314

(3) Charge an applicant a fee in an amount the administrative 315
section of the board authorizes for administering the examination; 316
317

(4) Design the examination for each type of contractor to 318
determine an applicant's competence to perform that type of 319
contracting. 320

(C) Issue and renew licenses as follows: 321

(1) Issue a license to any individual who the appropriate section of the board determines is qualified pursuant to section 4740.06 of the Revised Code to hold a license and has attained, within the twelve months preceding the individual's application for licensure, a score on the examination that the appropriate section authorizes for the licensed trade.

(a) Each license shall include a license number and an expiration date.

(b) Each license issued to an individual who holds more than one valid license shall contain the same license number and expiration date as the original license issued to that individual.

(2) Renew licenses for individuals who meet the renewal requirements of section 4740.06 of the Revised Code.

(D) Make an annual written report to the director of commerce on proceedings had by or before the board for the previous year and make an annual statement of all money received and expended by the board during the year;

(E) Keep a record containing the name, address, the date on which the board issues or renews a license to, and the license number of, every heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, and hydronics contractor issued a license pursuant to this chapter;

(F) Regulate a contractor's use and display of a license issued pursuant to this chapter and of any information contained in that license;

(G) Adopt rules in accordance with Chapter 119. of the Revised Code as necessary to properly discharge the administrative section's duties under this chapter. The rules shall include, but not be limited to, the following:

(1) Application procedures for examinations;	352
(2) Specifications for continuing education requirements for license renewal that address all of the following:	353
(a) A requirement that an individual who holds any number of valid and unexpired licenses accrue a total of ten hours of continuing education courses per year;	354
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(a) A requirement that an individual who holds any number of valid and unexpired licenses accrue a total of ten hours of continuing education courses per year;	356
(a) A requirement that an individual who holds any number of valid and unexpired licenses accrue a total of ten hours of continuing education courses per year;	357
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course offered, and one dollar per credit hour of instruction per attendee;	358
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course offered, and one dollar per credit hour of instruction per attendee;	359
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course offered, and one dollar per credit hour of instruction per attendee;	360
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course offered, and one dollar per credit hour of instruction per attendee;	361
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course offered, and one dollar per credit hour of instruction per attendee;	362
(c) A provision limiting approval of continuing education courses to one year.	363
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(3) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	365
(3) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	366
(H) Adopt any continuing education curriculum as the other sections of the board establish or approve pursuant to division (C) of section 4740.05 of the Revised Code;	367
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(I) Keep a record of its proceedings and do all things necessary to carry out this chapter.	370
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Sec. 4740.10. (A) The appropriate section of the Ohio construction industry licensing board, <u>upon an affirmative vote of four of its members</u> , may take any of the following actions against a licensee who violates Chapter 4740. of the Revised Code:	372
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Sec. 4740.10. (A) The appropriate section of the Ohio construction industry licensing board, <u>upon an affirmative vote of four of its members</u> , may take any of the following actions against a licensee who violates Chapter 4740. of the Revised Code:	375
(1) Impose a fine on the licensee, not exceeding one thousand dollars per violation per day;	376
(1) Impose a fine on the licensee, not exceeding one thousand dollars per violation per day;	377
(2) Direct the administrative section to suspend the licensee's license for a period of time the section establishes;	378
(2) Direct the administrative section to suspend the licensee's license for a period of time the section establishes;	379
(3) Direct the administrative section to revoke the	380

licensee's license;	381
(4) Require the licensee to complete additional continuing education course work. Any continuing education course work completed pursuant to this division may not count toward any other continuing education requirements this chapter establishes.	382 383 384 385
(5) Direct the administrative section to refuse to issue or renew a license if the section finds that the applicant or licensee has done any of the following:	386 387 388
(a) Been convicted of a misdemeanor involving moral turpitude or a felony;	389 390
(b) Violated any provision of this chapter or the rules adopted pursuant thereto;	391 392
(c) Obtained a license or any order, ruling, or authorization of the board by fraud, misrepresentation, or deception;	393 394
(d) Engaged in fraud, misrepresentation, or deception in the conduct of business.	395 396
(B) The appropriate section of the board shall determine the length of time that a license is to be suspended and whether or when an individual whose license has been revoked may apply for reinstatement. The appropriate section of the board may accept or refuse an application for reinstatement and may require an examination for reinstatement.	397 398 399 400 401 402
(C) The appropriate section of the board may investigate any alleged violation of this chapter or the rules adopted pursuant to it. If, after an investigation, a section determines that any person has engaged or is engaging in any practice that violates this chapter or the rules adopted pursuant to it, that section may apply to the court of common pleas of the county in which the violation occurred or is occurring for an injunction or other appropriate relief to enjoin or terminate the violation.	403 404 405 406 407 408 409 410

(D) Any person who wishes to make a complaint against a person who holds a license shall submit the complaint in writing to the appropriate section of the board within three years after the date of the action or event upon which the complaint is based.

Sec. 4740.16. (A) The appropriate section of the Ohio construction industry licensing board may investigate any person who allegedly has violated section 4740.13 of the Revised Code. If, after an investigation pursuant to section 4740.05 of the Revised Code, the appropriate section determines that reasonable evidence exists that a person has violated section 4740.13 of the Revised Code, within seven days after that determination, the appropriate section shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(B) The appropriate section shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the appropriate section, after the hearing, determines a violation has occurred, the appropriate section, upon an affirmative vote of four of its members, may impose a fine on the person, not exceeding one thousand dollars per violation per day. The appropriate section's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(C) If the person who allegedly committed a violation of section 4740.13 of the Revised Code fails to appear for a hearing, the appropriate section may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the appropriate section for a hearing.

(D) If the appropriate section assesses a person a civil 442
penalty for a violation of section 4740.13 of the Revised Code and 443
the person fails to pay that civil penalty within the time period 444
prescribed by the appropriate section, the appropriate section 445
shall forward to the attorney general the name of the person and 446
the amount of the civil penalty for the purpose of collecting that 447
civil penalty. In addition to the civil penalty assessed pursuant 448
to this section, the person also shall pay any fee assessed by the 449
attorney general for collection of the civil penalty. 450

Section 2. That existing sections 3781.111, 4517.21, 4740.01, 451
4740.02, 4740.04, and 4740.10 of the Revised Code are hereby 452
repealed. 453

Section 3. Section 3781.111 of the Revised Code is presented 454
in this act as a composite of the section as amended by both Sub. 455
H.B. 148 and Am. H.B. 264 of the 123rd General Assembly. The 456
General Assembly, applying the principle stated in division (B) of 457
section 1.52 of the Revised Code that amendments are to be 458
harmonized if reasonably capable of simultaneous operation, finds 459
that the composite is the resulting version of the section in 460
effect prior to the effective date of the section as presented in 461
this act. 462