WEST VIRGINIA CODE CHAPTER 29 ARTICLE 3C

WV Legislature

§29-3C-1. Purpose.

This article is intended to protect the health, safety and welfare of the public and to protect public and private property by assuring the competence of persons who perform electrical inspections of dwellings and other structures through certification by the state Fire Marshal.

WV Legislature

§29-3C-2. Definitions.

(a) As used in this article, the terms:

(1) "Certified electrical inspector" means a person who is certified by the state Fire Marshal as qualified to perform electrical inspections. "Electrical inspector" does not include an inspector employed by the office of miners' health, safety and training pursuant to the provisions of section eleven, article one, chapter twenty-two-a of this code.

(2) "Electrical inspection" means any inspection required by this code and any inspection of a building to which electrical service is connected, wherein the inspector certifies that the electrical system in the building is in compliance with the national electrical code, state fire code and the state building code.

WV Legislature

§29-3C-3. Certification of electrical inspectors required.

After January 1, 2003, no electrical inspections may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any person who is not certified pursuant to this article: *Provided,* That any person who is employed by this state or any subdivision of this state and who in the normal course of his or her business conducts electrical inspections may perform electrical inspections as within the scope of his or her employment without certification pursuant to this article. Notwithstanding any other provision of this code to the contrary, for purposes of this section any electrical building code inspector shall be considered an electrical inspector.

WV Legislature

§29-3C-4. Certification program; duties of the State Fire Marshal; rulemaking.

(a) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish a program for the certification of electrical inspectors. Proposed rules shall provide: Standards and procedures for certification, including applications, examinations, fees, qualifications, procedures for investigating complaints, revoking or suspending certifications, and for renewing licenses. The State Fire Marshal may propose emergency rules to implement the provisions of this article: *Provided*, That the emergency rules specify an initial certification fee of $50.

(b) The State Fire Marshal shall certify an electrical inspector upon a finding that the applicant possesses the requisite qualifications.

(c) When considering whether an applicant possesses the qualifications for certification as an electrical inspector, the State Fire Marshal shall consider whether an applicant's prior criminal convictions directly and specifically relate to the certification being sought.

(1) The State Fire Marshal may not disqualify an applicant from initial certification because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that directly and specifically relates to the duties and responsibilities of the activity requiring certification such that granting the applicant licensure would pose a direct and substantial risk to the public because the applicant has not been rehabilitated. In determining whether a criminal conviction directly and specifically relates to a profession or occupation, the State Fire Marshal shall consider, at a minimum:

(A) The nature and seriousness of the crime for which the individual was convicted;

(B) The passage of time since the commission of the crime;

(C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(D) Any evidence of rehabilitation or treatment undertaken by the individual, including the following, if applicable:

(i) The age of the individual when he or she committed the offense;

(ii) The completion of the criminal sentence;

(iii) A certificate of rehabilitation or good conduct;

(iv) Completion of, or active participation in, rehabilitative mental health, drug, or alcohol treatment;

(v) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;

WV Legislature

(vi) Education and training;

(vii) Employment history relevant to the license being sought;

(viii) Whether the individual will be bonded in the occupation; and

(ix) Other evidence of rehabilitation the individual submits to the commissioner.

(2) Notwithstanding any other provision of this code to the contrary, the State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from certification, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously held a certification under this section may petition the State Fire Marshal at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a certification. This petition shall include sufficient details about the individual's criminal record to enable the State Fire Marshal to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction.

(d) Notwithstanding any other provision of this chapter to the contrary, an individual may not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a conviction in an application for initial licensure or a determination under §29-3C-4(c)(3) of this code. If a criminal background check is reviewed, the disposition of any arrest or charge must be included.

(e) The State Fire Marshal shall update his or her licensure forms, other relevant public-facing documents, and website to explain the requirements of this section, including, but not limited to, the availability of the process set forth in §29-3C-4(c)(3) of this code.

WV Legislature

§29-3C-5. Denial of license; suspension and revocation of license.

The State Fire Marshal shall deny certification to any applicant, except those exempt under §29-3C-3 of this code, who:

(1) Fails to establish that he or she holds any other required qualifications for certification established pursuant to rules promulgated pursuant to section four of this article; or

(2) Is not a licensed journeyman or master electrician in accordance with rules promulgated pursuant to section four of this article.

WV Legislature

§29-3C-6. Suspension or revocation of certification.

The State Fire Marshal may, upon complaint, upon a request or referral, or upon his or her own inquiry suspend or revoke the certification of any person upon a finding that:

(1) The certification was granted upon an application, or upon documents supporting the application, that materially misstated the applicant's qualifications or experience;

(2) The certified electrical inspector knowingly subscribed to or vouched for a misstatement by an applicant for certification;

(3) The certified electrical inspector incompetently performed an electrical inspection;

(4) The certified electrical inspector failed to comply with a provision of this article, or any rule promulgated pursuant to section four of this article; or

(5) The certified electrical inspector failed to comply with the reporting requirements of section eight of this article.

WV Legislature

§29-3C-7. Prohibited acts.

A certified electrical inspector may not:

(1) Approve nor disapprove work of which he or she does not have personal knowledge;

(2) Misrepresent his or her authority or responsibility;

(3) Use his or her certification as an electrical inspector to secure special favors or treatment;

(4) Inspect any electrical installation for which he or she has performed any part of the work; or

(5) Perform an electrical inspection of any work furnished by a private contractor that employs him or her on a full-time, part-time or incidental basis: Provided, That an employee of a contractor performing electrical installation may inspect electrical work performed by other employees of the same employer, as long as the inspection is not intended to be relied on by any person other than the employer, and the electrical inspector does not certify to an electric utility or to any person that the work is in compliance with applicable building codes, electrical codes or other standards.

WV Legislature

§29-3C-8. Required reporting of violations.

Any certified electrical inspector having knowledge of violations of this code or rules promulgated pursuant to this code by the fire marshal or the Fire Commission shall submit the information, together with available evidence, to the state Fire Marshal.

WV Legislature

§29-3C-9. Noncompliance with article; failure to obtain certification; penalty.

(a) Any person performing electrical inspections without being certified pursuant to this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $150 nor more than $500, or confined in the county or regional jail for not more than ninety days, or both; and upon conviction of a second or subsequent offense, shall be fined not less than $500 nor more than $1,000, or confined in the county or regional jail for not more than ninety days, or both.

(b) Any person who conducts an electrical inspection without the required certification is subject to being issued a citation or a civil action in the name of the state in the circuit court of the county where the inspection was or is being performed for an injunction. A circuit court by mandatory or prohibitory injunction may compel compliance with the provisions of this article, with the lawful orders of the state Fire Marshal and with any final decision of the state Fire Marshal or state Fire Commission. The State Fire Marshal shall be represented in all proceedings instituted pursuant to this subsection by the Attorney General or his or her assistants.

WV Legislature

§29-3C-10. Disposition of fees and other receipts.

All fees or moneys received as a result of actions under this article shall be deposited in the special account created pursuant to section twelve-b, article three of this chapter. Expenditures from the fund shall be for the purposes set forth in this article and article three of this chapter.

WV Legislature