

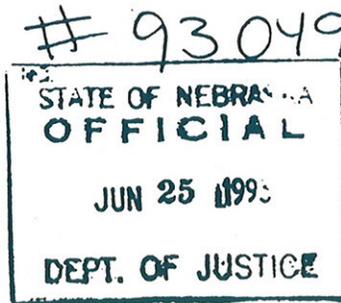


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DATE: June 11, 1993
SUBJECT: Enforcement of LB 193 by Municipalities
REQUESTED BY: Terry L. Carlson, Executive Director
State Electrical Board
WRITTEN BY: Don Stenberg, Attorney General
Jan E. Rempe, Assistant Attorney General

You have asked whether municipalities having electrical licensing or inspection programs approved by the State Electrical Board ("Board") must enforce various provisions contained in LB 193, which was signed by the Governor on May 4, 1993, and which amends the State Electrical Act ("Act"), Neb. Rev. Stat. §§ 81-2101 to 81-2145 (1987 & Cum. Supp. 1992). Specifically, you have asked whether such municipalities must enforce the provisions of LB 193 which (1) limit the number of apprentice electricians that can be supervised by a licensed electrician, (2) require electrical license holders to complete 12 hours of continuing education for license renewal, and (3) make it a Class I misdemeanor to engage in certain types of conduct related to electrical work and inspections.

Under the Act, electricians are not required to hold a state electrical license if they hold a valid license issued by a political subdivision, as long as the license holder makes electrical installations only within the political subdivision's jurisdictional limits and such license "meets the requirements of the act." LB 193, § 20 (amending § 81-2121). The Act also provides that state inspection of electrical installations does not apply to various political subdivisions if such subdivision enacts a resolution or ordinance providing electrical wiring and

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installation standards which are "not less than those prescribed by the board or by the State Electrical Act," and providing for the inspection of such electrical installations within the political subdivision's limits. LB 193, § 22 (amending § 81-2125). See also § 81-2130 (inspection ordinances, resolutions, and codes to be filed with the Board); 100 NAC 16 (regulations governing inspection by political subdivisions).

APPRENTICE ELECTRICIANS

Section 12 of LB 193 amends § 81-2113 by providing that licensed electricians "may employ or supervise apprentice electricians at a ratio not to exceed three apprentice electricians to one licensee, except that such ratio . . . shall not be applicable to a teacher-student relationship within a classroom of a community college."

As described above, the Act requires that electrical licenses issued by political subdivisions meet the Act's requirements for state licensure. See Committee Records on LB 525, 84th Neb. Leg., 1st Sess. 11-12 (Feb. 27, 1975) (cities should not have the "loop-hole" of issuing licenses that are substandard to the Nebraska Electrical Act; electrical licenses issued by political subdivisions should meet the Act's minimum requirements for state licensure).

Because the three-to-one ratio contained in LB 193 is a requirement for retaining one's license under the Act, and because licenses issued by political subdivisions must meet the Act's state licensure requirements, political subdivisions must enforce the three-to-one ratio provided in LB 193, § 12, if the subdivision issues electrical licenses. See LB 193, § 4 (Board can revoke, suspend, or refuse to renew licenses for violations of the Act).

CONTINUING EDUCATION

Section 16 of LB 193 requires completion of 12 hours of continuing education in order to renew one's electrical license. Again, since this is a state licensure requirement, and since licenses issued by political subdivisions must meet the Act's state licensure requirements, political subdivisions must also enforce this continuing education provision in renewing electrical licenses issued by those subdivisions.

CRIMINAL PENALTIES

Section 33 of LB 193 makes certain conduct related to electrical work and inspections a Class I misdemeanor. You have asked whether political subdivisions that have Board-approved electrical inspection programs must "enforce the provisions of this section when someone violates any of the subsections listed."

Whether political subdivisions like cities must prosecute acts prohibited under LB 193 depends upon the content of that city's ordinances. Whether such prosecution is possible at the city level depends upon the criminal sanctions set forth in the cities' electrical licensing and inspection ordinances.

However, we would expect that if city electrical inspectors became aware of municipal ordinance or state statutory violations, they would refer the matter to the appropriate legal authority for prosecution.

CONCLUSIONS

(1) Political subdivisions with Board-approved electrical licensure or inspection programs must enforce the three-to-one ratio contained in LB 193, § 12, and the continuing education requirements set forth in LB 193, § 16.

(2) A municipality's duty to prosecute persons who commit acts prohibited by the State Electrical Act depends upon the criminal sanctions provided in the municipality's electrical licensing and inspection ordinances.

Sincerely,

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Approved By:



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